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**FIRST SCHEDULE.—FORMS.****SECOND SCHEDULE.—TERRITORIES EXEMPTED, IN THE FIRST INSTANCE, FROM THE OPERATION OF THE ACT.**

*An Act to amend the Law relating to the recovery of Rent in the North-Western Provinces.*

WHEREAS it is expedient to amend the law relating to the recovery of Rent in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

**CHAPTER I.****PRELIMINARY.**

Short title.

1. This Act may be called “The North-Western Provinces Rent Act, 1881.”

It extends in the first instance to the territories for the time being under the government of the Lieutenant-Governor of the North-Western Provinces, except those specified in the second schedule hereto annexed. But the Local Government may, by notification in the official Gazette, extend the whole or any part of this Act to all or any of the territories so excepted, and when any part of the North-Western Provinces Rent Act, 1873, has been extended to any such territory, such part shall be repealed therein and the corresponding part of this Act shall extend thereto.

Save as provided by sections 171 and 172, nothing herein contained applies to land for the time being occupied by dwelling-houses or manufactories, or appurtenant thereto, so long as such land is not let to agricultural tenants.

This Act shall come into force on the first day of April, 1881.

**2. The North-Western Provinces Rent Act, 1873, is hereby repealed.**  
Act No. XVIII of 1873 repealed. But such repeal shall not legalize any practice which, immediately before the passing of that Act, was unlawful.

All rules and appointments made, notifications and proclamations issued, Rules, &c., under re-pealed Act. authorities and powers conferred, leases granted, rents fixed, rights acquired, liabilities incurred and places appointed under that Act shall, so far as may be, be deemed to have been made, issued, conferred, granted, fixed, acquired, incurred and appointed hereunder.

Illustration (a) to the Indian Penal Code, section 19, and Act No. XI of 1865, section 52, shall be read as if, for “Act X of 1859,” the words and figures, “the North-Western Provinces Rent Act, 1881,” were substituted. And in all Acts passed after the said North-Western Provinces Rent Act, 1873, all references to that Act shall be read as if made to this Act.

**3. In this Act, unless there be something repugnant in the subject or context—**

‘Mabál’:

(1.) ‘Mabál’ means—

(a) any local area held under a separate engagement for the payment of land-revenue, and for which a separate record-of-rights has been framed;

(b) any local area of which the revenue has been assigned or redeemed, and for which a separate record-of-rights has been framed:

(1A.) ‘Tenant’ includes a thékadár and a katkanadár:

(2.) ‘Rent’ means whatever is to be paid, delivered or rendered by a tenant on account of his holding, use or occupation of land:

(3.) ‘Landholder’ means the person to whom a tenant is liable to pay rent:

**'Sir-land.'****(4.) 'Sir-land' means—**

- (a) land recorded as sir at the last settlement or revision of settlement of the district in which it is situate, and continuously so recorded since;
- (b) land continuously cultivated for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour;
- (c) land recognized by village-custom as the special holding of a co-sharer, or treated as such in the distribution of profits or charges among the co-sharers:

**(5.) 'Collector of a District'** means the chief officer in charge of the Revenue Administration of a District:

**(6.) 'Commissioner of a Division'** means the chief officer in charge of the Revenue Administration of a Division:

**(7.) 'Board'** means the Board of Revenue for the North-Western Provinces:

**(8.) 'Civil Jail'** means the civil jail of the District, and includes any place appointed by the Local Government for the confinement of prisoners under sentence of any Court constituted under this Act.

**CHAPTER II.****RIGHTS AND LIABILITIES OF LANDHOLDERS AND TENANTS.**

**4. When any permanent and transferable interest in land in a district or portion of a district has been held otherwise than under a terminable lease by any person intermediate between the proprietor of the mahal and the occupants, and by the predecessors in interest of such person, from the time of the permanent-settlement, at the same rate of rent, such person shall have a right to hold such interest at that rate.**

**5. When any land in a district or portion of a district which is permanently settled has been held by a tenant and his predecessors in interest, from the time of the permanent settlement, at the same rate of rent, such tenant shall have a right of occupancy at that rate.**

A tenant having such right is hereinafter called a "tenant at a fixed rate."

**6. When, in any suit to which the provisions of section 4 or section 5 apply, it is proved that the land has for a period of twenty years next before the institution of the suit been held by the present holder and his predecessors in interest at the same rate of rent, it shall be presumed, until the contrary is proved, that it has been held at such rate from the time of the permanent settlement.**

**7. Every person who may hereafter lose or part with his proprietary rights in any mahal shall have a right of occupancy in the land held by him as sir in such mahal at the date of such loss or parting, at a rent which shall be four annas in the rupee less than the prevailing rate payable by tenants-at-will for land of similar quality and with similar advantages.**

Persons having such rights of occupancy shall be called "ex-proprietary tenants," and shall have all the rights of occupancy-tenants.

If there are two or more sharers in any sir-land and one of them becomes an ex-proprietary tenant, the share which previously belonged to such ex-proprietary tenant shall, on his application or on the application of the person entitled to receive the rent, be divided off by the Collector, and the rights of the ex-proprietary tenant shall be limited to the land comprised in such share.

**8. Every tenant who has actually occupied or cultivated land continuously for twelve years has a right of occupancy in the land so occupied or cultivated by him.**

Such tenants shall be called "occupancy-tenants."

The occupation or cultivating of the father or other person from whom the tenant inherits, shall be deemed to be the occupation or cultivating of the tenant within the meaning of this section:

Tenants barred from right of occupancy. Provided that no tenant shall acquire, under this section, a right of occupancy—

- (a) in land which he holds from an occupancy-tenant, or from an ex-proprietary tenant, or from a tenant at fixed rates;
- (b) in sir-land;
- (c) in land held by him in lieu of wages.

Provided also that, when a tenant actually occupies or cultivates land under a written lease, without having a right of occupancy in such land, the period of twelve years necessary for acquiring a right of occupancy therein by him or any one claiming under him shall begin on the expiration of the term of such lease. If during the currency of such lease he ceases to occupy the land comprised therein, and sublets it to another, no right of occupancy in such land shall be acquired by the sub-lessee during the currency of the lease.

Rights under sections 7 and 8 when transferable. **9. The right of tenants at fixed rates may devolve by succession or be transferred.**

No other right of occupancy shall be transferable in execution of a decree or otherwise than by voluntary transfer between persons in favour of whom as co-sharers such right originally arose or who have become by succession co-sharers therein.

When any person entitled to such last-mentioned right dies, the right shall devolve as if it were land: Provided that no collateral relative of the deceased who did not then share in the cultivation of his holding shall be entitled to inherit under this clause.

**10.** On the application of any tenant to have Determination of class his class of tenure determined, the Collector of the District or Assistant Collector shall determine the class to which he belongs, namely—

whether he is a tenant at fixed rates, or an ex-proprietary tenant, or an occupancy-tenant, or whether he is a tenant without a right of occupancy.

Bar to enhancement of rent of tenants at fixed rates. **11.** The rent paid by tenants at fixed rates shall not be liable to enhancement, except as provided by section 18.

Enhancement in case of ex-proprietary and occupancy-tenants. **12.** The rent paid by ex-proprietary or occupancy-tenants shall not be liable to enhancement except—

(a) by a written agreement registered under the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or recorded before the Kāndūgo : or

(b) by order of a Settlement-officer passed under the law for the time being in force : or

(c) by order under this Act.

**13 (a).** Where the rent of any occupancy-tenant has not been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

(b) or where the rent has been fixed by any such order, but the term for which it has been fixed has expired,

(c) or where ten years from the date on which an order fixing the rent has taken effect have expired,

(d) or where by order of the Local Government the assessment of the district has been revised before confirmation,

(e) or where the period of settlement of the district has come to an end,

the landholder may apply to enhance the rent of such tenant on one of the following grounds and on no others :—

(f) that the rate of the rent paid by such tenant is below the prevailing rate payable by the same class of tenants for land of similar quality with similar advantages;

(g) that the value of the produce has, or the productive powers of the land have, been increased otherwise than by the agency or at the expense of the tenant ;

(h) that the quantity of land held by the tenant has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

**14 (a).** Where the rent of any ex-proprietary tenant has not been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section 18, clauses (c), (d) and (e) has occurred,

the landholder may apply to enhance or determine the rent of such tenant as if he were an occupancy-tenant: Provided that his rent shall be four annas in the rupee below the prevailing rate for land of a similar quality with similar advantages held by tenants-at-will.

(b). Whenever the district or tahsil, or other local

Selection of land for area in which such land is situated, has been divided by the Settlement-officer

into circles of like capacity and soil, the land of similar quality, with similar advantages, shall, for the purposes of this section and section 18, be selected from the same circle.

(c). When the Settlement-officer has not so divided the district or other local area as aforesaid, the land regarding which the application has been made shall be compared with land of similar quality and with similar advantages, in the same tahsil or in a tahsil immediately adjacent.

**15.** Where the rent of any ex-proprietary tenant

Abatement in like or occupancy-tenant has not been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section 18, clauses (c), (d) and (e) has occurred,

the tenant may apply for an abatement of his rent on one of the following grounds, and on no others :—

(a) that the area of the land held by him has been diminished by diluvion or otherwise :

(b) that the value of the produce has, or the productive powers of such land have, been decreased by any cause beyond his power.

**16.** Where the rent of any ex-proprietary or

Time of enhancement or abatement where rent of ex-proprietary or occupancy-tenant has been fixed by an order under this Act, such rent shall not be liable to be enhanced or abated until the occurrence of any of the events mentioned in section 18, clauses (c), (d) and (e), whichever first occurs.

**17.** Notwithstanding anything contained in section 16 where the rent of

Grounds of enhancement and abatement where his rent has been fixed by order of a Settlement-officer or under this Act.

Revenue Act, 1873, or by an order under this Act, the landholder may apply to enhance the rent of such tenant during the currency of the term for which the rent has been so fixed, on one of the following grounds, and on no others :—

(a) that the area of the tenants holding has been increased by alluvion or otherwise :

(b) that the productive powers of the land held by the tenant have, since the date of the order, been increased otherwise than by the agency or at the expense of the tenant:

And the tenant may apply for abatement of his rent on one of the following grounds, and on no others :—

(c) that the area of the land held by him has been diminished by diluvion or otherwise;

(d) that the productive powers of such land have been decreased by any cause beyond his control.

**18. In the case of a tenant at fixed rates,**

Grounds of enhancement or abatement of rent of tenant at fixed rates. landholder may apply to enhance his rent on the ground that the area of the land in his holding has been increased by alluvion or otherwise,

and the tenant may apply for abatement of his rent on the ground that the area of the land in his holding has been diminished by diluvion or otherwise.

**19. Applications for enhancement or abatement**

Day before which applications for enhancement or abatement must be made. of rent must be made on or before the thirty-first day of August next before the year commencing on the first day

of July from which the rent is to be enhanced or abated,

and every order for enhancement or abatement Orders when to take effect. shall take effect from the first day of July next follow-

ing the date of such order, unless for some reason, to be stated in writing, the Court thinks fit to order otherwise.

**20. In determining, under this Chapter, the rate**

Consideration of caste and class of tenant in determining rate of his rent. of rent payable by any tenant, his caste shall not be taken into consideration, unless it is proved that, by local custom, caste is taken into account in determining such rate;

and whenever it is found that, by local custom or practice, any class of persons, by reason of their having formerly been proprietors of the soil or otherwise, hold land at favourable rates of rent, the rate shall be determined in accordance with such custom or practice.

**21. No tenant-at-will of land shall be liable to pay rent in excess of the**

Tenants-at-will. rent (if any) payable by him in the previous year ending on the thirtieth day of June, unless the landholder and tenant have agreed as to the rent to be paid to the former by the latter, and such agreement has been recorded by the káñúngó of the pargana in which such land is situate.

**22. Notwithstanding anything hereinbefore**

Rent of ex-proprietary or occupancy-tenant fixed by agreement. contained, when the rent of any ex-proprietary or occupancy-tenant has been fixed by agreement between the parties, such rent shall not be liable to enhancement or abatement for such term as may be agreed on.

**22A. When any land is held of a landholder**

Applications to survey land. by a tenant, such landholder or tenant may, in the absence of a written contract to the contrary, apply to the Collector of the District to have such land surveyed. The Collector, on receiving such application, may estimate the cost of such survey, and, by order in writing, require the applicant to deposit the amount of such estimate.

If the applicant deposits such amount within fifteen days from the date of the order, the Collector of the District shall issue a notice to the other party or parties to the tenancy to show cause, at a time and place specified in such notice, why the survey should not be made; and, if no such cause is so shewn, may, by an order in writing, direct the survey to be made by such person and at such time as he thinks fit.

A copy of such order shall be served on all the parties to the tenancy; and, if any party fails to attend at the appointed time, it shall not thereafter be open to him to question the correctness of the survey made in his absence.

If any party, on being called upon to show cause as aforesaid, makes any objection to the survey and such objection is overruled, he shall be liable to pay the costs (if any) occasioned by such objection.

Nothing in this section shall affect any power conferred by law to compel the attendance of any person at a survey.

**23. Whenever for any cause the Local Govern-**

Power to remit or suspend payment of rent when payment of revenue remitted or suspended. ment remits or suspends for any period the payment of the whole or any part of the revenue payable in respect of any land, any officer em-

powered by the Local Government in this behalf may, subject to such rules as to appeal, confirmation or otherwise as may, from time to time, be prescribed by the Board, order that the rent of such land shall be remitted, or suspend ~~for~~ <sup>the</sup> revenue, as the case may be, to an amount which shall be equal to double the amount of the revenue of which the payment has been so remitted or suspended, or shall bear the same proportion to the whole of the rent payable in respect of the land as the revenue of which the payment has been so remitted or suspended bears to the whole of the revenue payable in respect of such land;

and, subject to the same rules, the landholder shall be bound by such order.

**(A).—Leases.**

**24. Every tenant is entitled to receive from the**  
Contents of lease to landholder, and may at any time during the continuance entitled. of his holding, apply for a lease containing the following particulars :—

- (a) the quantity of land held by him, and, where the fields have been numbered in a Government survey, the number of each field :
- (b) the amount of annual rent payable for such land :
- (c) the instalments in which, and the dates on which, such rent is to be paid :
- (d) any special conditions of the lease :
- (e) if the rent is payable in kind, or is calculated on a valuation of the produce, the proportion of produce to be delivered, the mode of valuation, and the time, manner and place of delivery.

Leases to which tenants at fixed rates are entitled. **25. Tenants at fixed rates** are entitled to receive leases at such rates.

**26. Ex-proprietary and occupancy-tenants are entitled to receive leases at the rates determined in accordance with the law for the time being in force, or,**

**Leases to which ex-proprietary and occupancy-tenants are entitled.** where no rates have been so determined, at the rates actually paid by them when they demand such leases.

**27. All other tenants are entitled to leases only on such terms as may be agreed upon between them and the landholders.**

**Landholder granting lease entitled to reciprocal engagement.** Every landholder who grants a lease is entitled to receive a reciprocal engagement from the tenant, executed by the tenant, and conformable with the terms of the lease.

The tender to any tenant of a lease, such as he is entitled to receive, shall entitle the landholder to receive a reciprocal engagement from such tenant.

**29. Notwithstanding anything contained in section 22, when any lease is granted, or any agreement is entered into, by any landholder under engagement with Government for his land, fixing the rent of land for any period exceeding the term of such engagement, and such term expires, such lease or agreement shall,**

(a) when, on the expiration of such term, the revenue payable in respect of such land is enhanced—be voidable at the option of the landlord, unless the tenant agrees to pay such rent as a Settlement-officer or other person duly empowered in this behalf may, on the application of the landlord, determine to be fair and reasonable; and

(b) when such land-revenue is on the expiration of such term reduced—be voidable at the option of the tenant, unless the landlord agrees to accept such rent as a Settlement-officer or other person duly empowered in this behalf may, on the application of the tenant, determine to be fair and reasonable.

**30. (a) And whereas all grants (whether in writing or otherwise) for free grants.** holding land exempt from the payment of rent which have been made since the first day of December, 1790, by any authority other than that of the Governor General in Council, were declared by Bengal Regulation XIX of 1793, section 10, to be null and void, and like provisions have been by divers Regulations applied to the several parts of the territories to which this Act extends, and the said Regulation XIX of 1793 also provided that no length of possession should be considered to give validity to any such grant, either with regard to the property in the soil or the rents of it, it is hereby further enacted as follows:

(b) Applications by the proprietor to resume such grants or to assess rent on the land, shall be made to the Collector of the District or Assistant Collector, and, subject to rules to be made by the Local Government, shall be dealt with as other applications under this Act.

(c) Grants of land held under a written instrument, by which the grantor expressly agrees that the grant shall not be resumed, shall be held valid as against him (but not as against his representatives after

his death) during the continuance of the settlement of the district in which the land is situate, which is current at the date of the grant.

**(d) Where any land, having been for the fifty years next before the twenty-second day of December, 1873,**

**two successors to the original grantee, was held rent-free and by at least two successors to the original grantee, was so held on that day, such holding shall be deemed to have conferred on the holder a proprietary right.**

**(e) Nothing in the Indian Limitation Act, 1877, shall bar the right to make an application under this Act to assess to rent land held rent-free.**

**(f) Nothing in this section shall apply to either of the following cases:—**

**(1) Where land was, previously to the passing of the North-Western Provinces Rent Act, 1873, held rent-free under a judicial decision:**

**(2) Where, previously to the passing of that Act, land held rent-free had been purchased for a valuable consideration and resumption thereof had been barred under Act No. X of 1859, section 28, or under the Indian Limitation Act, 1871, schedule II, No. 130.**

#### (B).—Relinquishment and Ejectment.

**31. Every tenant not holding under a lease Relinquishment of rent of the land in his holding under a lease.** shall continue liable for the rent of the land in his holding for the ensuing year, unless on or before the first day of May in any year he gives notice in writing to the landholder, or his recognized agent, of his desire to relinquish such land on the thirtieth day of June next ensuing, and relinquishes it accordingly; or unless it is let to any other person by such landholder or agent:

Provided that, whenever an order for the enhancement of the rent of any land held by any such

tenant is passed and the tenant within fifteen days of the date of such order gives to the landholder or his recognized agent notice in writing of his desire to relinquish such land at the commencement of the period in respect of which such enhancement takes effect, and relinquishes such land accordingly, he shall not be liable for the rent payable for such land in respect of any period subsequent to such relinquishment.

**Explanation.—No notice can be given under this section in respect of a portion only of any land held under the same lease or engagement.**

**32. If the landholder or his agent refuses to receive any notice under section 31, or if he receives it, but refuses to sign and deliver a receipt for the same, the tenant may, before the expiration of the period limited for giving such notice, make an application to the tahsildar, who shall thereupon cause the notice to be served on such landholder or agent, the tenant paying the costs of service.**

**33. The notice shall, if practicable, be served personally on the landholder or his agent; but if the landholder or his agent cannot be found, or if he evades service of the notice, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the**

land is situate, at the *chaupál*, or other conspicuous place in the village where the land is situate.

Where the delay in serving the notice is owing to the fault of the landholder or his agent, the notice shall be deemed to have been served at the first attempt to serve it.

**33A. When any such notice has been received**

**Application by landholder to set aside notice.** by or served on a landholder or his agent he may, within fifteen days from such receipt or service, apply to the Collector or Assistant Collector to have such notice declared invalid, and the Collector shall thereupon determine the question between the parties.

If the landholder or his agent does not so apply within such period of fifteen days, he shall be deemed to have accepted the notice.

**34. (a). When an arrear of rent remains due**

**Liability of tenant to pay interest on arrear and to be ejected.** from any tenant, he shall be liable to pay interest on such arrear at one per cent. per mensem; and if the arrear remains due on the thirtieth day of June, to be ejected from the land in respect of which the arrear is due.

**(b). No tenant shall be ejected otherwise than Bar to ejectment without decree.** in execution of a decree or order under the provisions of this Act.

**(c). No ejectment of a tenant or forfeiture of a lease not to be decreed for certain acts or omissions.** lease shall be decreed on account of any act or omission of the tenant—

- (1) which is not detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let, or
- (2) which by law, custom, or special agreement does not involve the forfeiture of the lease.

**Explanation.—**In clauses (a) and (b) the word 'tenant' does not include a *thékadár* and a *katkádár*.

**35. If the landholder desires to eject a tenant**

**Ejection of tenant at fixed rates, ex-proprietor, with right of occupancy, or holding under unexpired lease.** at fixed rates, an ex-proprietary tenant, an occupancy-tenant or a tenant holding under an unexpired lease, against whom a decree for

arrears has been passed and remains unsatisfied, he may, after the expiration of the year, ending on the thirtieth day of June, in which such arrears accrued, apply to the Collector of the District or Assistant Collector to eject the tenant.

Such officer shall, on receiving such application, cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that if he does not pay such amount into Court within fifteen days from receipt of the notice, he will be ejected from his land.

If such amount be not so paid, the Collector of the District or Assistant Collector may eject the tenant.

**36. If the landholder desires to eject a tenant**

**Service of notice on tenant for limited period.** not having a right of occupancy, or any other tenant holding only for a limited period, after the determination of his tenancy, he shall cause a written notice of ejectment to be served on such tenant under the provisions of this Act.

**37. The notice of ejectment shall be written in language and con-** the vernacular language and tents of notice. character of the district:

it shall specify the land from which the tenant is to be ejected;

and it shall inform him that he must vacate such land; or that, if he means to contest the right to eject him, he must apply to the Collector of the District or Assistant Collector for that purpose.

**38. The notice shall be issued and served**

**Mode of serving notice.** through the office of the tahsildár on application made to him between the first day of January and the first day of April in each year, and the landholder shall pay the cost of service: it shall be served personally on the tenant, if practicable; but if he cannot be found, service may be made by affixing the notice to his usual place of residence.

**39. (a). The tenant, on whom such notice has**

**Effect of failure of tenant to institute suit to contest liability to ejectment.** been served, may, within thirty days next after the service, make an application to the Collector of the

District or Assistant Collector, contesting his liability to be ejected.

**(b). When such an application is made,** the Collector of the District or Assistant Collector shall proceed to determine the question between the parties.

**(c). On the determination of such question ad-** versely to the tenant, or, where no application under this section has been made within the said period of thirty days, on the expiration of such period, the tenancy of the land in respect of which the notice has been served shall cease:

Provided that when such question has been determined or such period has expired, as the case may be, before the first day of May next following the making of the application under section 38, the tenancy shall continue until and cease upon that day:

Provided also that the tenancy shall not cease under this section when after the service of the notice, the landholder authorises the tenant to continue in the occupation of the land.

**40. If the landholder require assistance to eject**

**Procedure to enforce** the person whose tenancy is alleged to have ceased under the provisions of section 39, he may, within fifteen days from the date of such cessation, apply to the Collector of the District or Assistant Collector for such assistance, and the Collector of the District or Assistant Collector shall order the ejectment of such tenant if he is satisfied—

- (a) that the notice was duly served on such tenant under section 38;
- (b) that he has not been authorized by the landholder to continue in occupation;
- (c) that the tenant has not made the application mentioned in section 39, clause (a); or
- (d) that if such application has been made, the question has been determined adversely to the tenant:

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received if the lease be of the kind in which an advance has been made by the lease-

holder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the landholder must proceed by suit in the Civil Court.

**41.** If the landholder expressly authorise the Notice of ejectment tenant, on whom the notice when void. of ejectment has been served, or against whom any proceedings in ejectment under section 40 have been taken, to remain in occupation of the land, and to prepare it for the harvest, the proceedings shall become void.

**42. (a).** Any tenant ejected in accordance with Rights of ejected the provisions of this Act, tenant. shall be entitled to any growing crops or other ungathered products of the earth belonging to the tenant, and growing on the land at the time of his ejectment, and to use the land for the purpose of tending and gathering in such crops or other products, paying adequate rent therefor:

**(b).** Provided that, if the landholder desire to purchase such crops or other products, he may tender their price to the tenant; and thereupon the right of the tenant to such crops and other products, and to use the land for the purpose aforesaid, shall cease.

**(c).** In the case of a dispute under this section, Power to determine the Collector of the District rent and price. or Assistant Collector may, on the application of the landholder or tenant, award the rent and price so payable; and the amount of such award, or of any tender accepted under this section, shall be recoverable as an arrear of rent by suit under this Act.

**(a).** The rent, if any, payable to the landholder Set-off of rent. by the tenant at the time of his ejectment may be set-off against the price of the said crops or other products.

**43. (a).** Wherever rent is taken by division of Application for officer to divide produce or appraise crop. the produce in kind, or by estimate or appraisal of the standing crop, or other procedure of a like nature, requiring the presence both of the cultivator and landholder, either personally or by agent,

if either landholder or tenant, personally or by agent, neglect to attend at the proper time, or if there is a dispute as to the amount or value of the crop,

an application may be presented by either party to the Collector of the District or Assistant Collector, requesting that a proper officer be deputed to make the division, estimate or appraisal.

**(b).** On receiving such application, the Collector Procedure on such application. Collector shall issue a written notice to the opposite party or his agent, to attend on the date and at the time specified in the notice, and shall depute an officer before whom such division, estimate or appraisal shall be made.

**(c).** If on or before the date appointed, the dispute has not been amicably adjusted, three residents of the village or neighbourhood shall be appointed assessors; one by each of the parties and one by the officer deputed to divide the grain or estimate or appraise the crops, and the officer

deputed shall decide the amount of rent payable by their award, and shall give to the party applying a written authority to divide the grain or cut the crops:

**(d).** Provided that, if either party fail to attend, the officer deputed shall nominate an assessor on his behalf.

**(e).** The officer deputed shall report his proceedings to the Collector of the District or Assistant Collector, who shall determine the amount of costs properly incurred under this section, and the share of the costs to be paid by either party.

**(C).—Compensation for Improvements made by Tenants.**

**44.** If any tenant, or any person from whom Tenants' right to compensation for improvements. he has inherited or purchased, make any such improvements on the land in his possession as are hereinafter mentioned, neither he nor his representative shall be ejected from the same land without payment of compensation for such improvements.

*Explanation.*—In this section the word "tenant" does not include a thékadár or a katkanadár and the word "improvements" means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and comprises—

**(a)** tanks, wells and other works for the storage, supply or distribution of water for agricultural purposes,

**(b)** works for the drainage of land, or for the protection of land from floods or from erosion or other damage by water,

**(c)** the reclaiming, clearing, or enclosing of lands for agricultural purposes,

**(d)** the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto.

Notwithstanding anything hereinbefore contained, no tenant, other than a tenant at fixed rates or an occupancy-tenant, shall be entitled to compensation in respect of any improvement made without the consent of the landholder after this Act comes into force.

**45.** Such compensation may, at the option of the Mode of making compensation. landholder or his representative, be made—

**1st**,—by payment in money;

**2nd**,—by a rent to be charged on the land;

**3rd**,—by the grant of a beneficial lease of the land, by the landholder or his representative, to the tenant or his representative;

**4th**,—partly by one or by any two of the said ways, and partly by the others or other of the same ways.

**46.** In case of difference as to the amount or Settlement of difference as to amount or value of compensation. tendered, either party may apply to the Collector of the District or Assistant Collector stating the matter in dispute, and requesting a determination thereof.

On receiving such application, the Collector of the District or Assistant Collector shall—

**(a)** cause notice thereof to be served on the other party,

**(b)** take such evidence as the parties or either of them may adduce,

(c) make such further inquiry as the Collector of the District or Assistant Collector may deem necessary, and

(d) determine the amount of the payment in money, and the amount and incidence of the rent-charge, and the terms of the lease, or any of such matters.

**47.** In determining the amount or value mentioned in section 46, or the terms of such lease, the Collector of the District or Assistant Collector shall take into account any assistance given to the tenant by the landholder either directly in money, material or labour, for the purpose of making such improvements, or indirectly by allowing the tenant to hold at a favourable rate of rent.

*(D).—Compensation for wrongful acts and omissions.*

**48.** Every tenant from whom any sum is exacted in excess of the rent specified in his lease or payable under the provisions of this Act,

and every tenant from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the landholder compensation not exceeding double the amount so exacted or paid.

Receipts for rent shall specify the period or crop on account of which the rent is acknowledged to have been paid;

And any refusal to make such specification shall be held to be a withholding of a receipt.

*Explanation.*—In this section the word “tenant” does not include a thékadár or a katkanadár.

**49.** If payment of rent, whether the same be legally due or not, is extorted from any tenant by illegal confinement or other duress, he shall be entitled to recover from the person guilty of such extortion such further compensation, not exceeding the sum of two hundred rupees, as the Collector of the District or Assistant Collector thinks reasonable.

An award of compensation under this section shall not bar or affect any liability to punishment for extortion not affected.

such extortion may be subject under the Indian Penal Code.

*(E).—Deposit of Rent in Court.*

**50.** If any tenant tenders to the landholder full payment of the rent due from him, and if the amount so tendered be not accepted,

and a receipt for the amount forthwith granted, the tenant may thereupon apply to the Collector of the District or Assistant Collector for leave to deposit such amount in his Court to the credit of the landholder.

**51.** The application to the Collector of the District or Assistant Collector shall be as nearly as may be in the form (A) in the first schedule hereto annexed, and shall be verified in the manner hereinafter prescribed for the verification

And the person making the verification shall be punishable, if the application contain any averment which he knows or believes to be false, or does not know or believe to be true.

**52.** The Collector of the District or Assistant Collector shall receive the amount which the tenant desires to deposit, and shall thereupon issue to the person to whose credit it has so been deposited, a notice in English or the vernacular language of the district in the form (B) in the first schedule hereto annexed, or to the like effect.

And such deposit shall, in all questions between the landholder and the tenant, be deemed to be a payment made by the tenant to the landholder on account of the rent.

**53.** Such notice shall be served through the taháldár upon the person to whom it is addressed, or upon his recognized agent.

In their absence, the notice shall be affixed at the chāupál, or other conspicuous place in the village in which the land for which the rent is due is situate.

**54.** If at any time before the expiration of three years from the date of the deposit the person on whom such notice is served, or his recognized agent, appears and applies that the money in deposit be paid to him, it shall be paid accordingly, unless it has been repaid or paid in accordance with the provisions next hereinafter contained.

**55.** If no application be made by such person or Refund to depositor. his recognized agent, the sum shall be repaid to the depositor on the expiration of three years from the date of the deposit.

And at any time before the expiration of such period, on the joint application of the depositor and the person to whose credit the said sum was deposited, such sum shall be paid in such manner as the joint applicants desire.

**55A.** When, owing to the death of the landlord or other cause, two or more persons severally claim the right to collect the rent from a tenant, the tenant may apply to the Collector of the District or the Assistant Collector for leave to deposit in Court the full amount of rent due from him, and such deposit, if made with the leave of the Collector or Assistant Collector, shall, in all questions between the landholder and the tenant, be deemed to be a payment made by the tenant to the landholder on account of the rent.

The Collector of the District or Assistant Collector may, after such enquiry as he thinks necessary, direct payment of the amount deposited to such one of the persons claiming such rent as appears to him entitled to receive the same, or may order the same to remain in deposit pending decision by a competent Court.

No suit shall lie against the Secretary of State for India in Council or against any officer of Government in respect of any payment made under this section, but nothing herein contained shall affect the right of any person entitled to such

payment to recover the amount thereof from any other person to whom it has been paid.

### CHAPTER III.

#### DISTRESS.

**56.** The produce of all land in the occupation of a cultivator shall be deemed hypothecated for the rent payable in respect of such land; and until such rent has been satisfied, no other claim on such produce shall be enforced by sale in execution of decree or otherwise;

and when an arrear of rent is due from any cultivator, the person entitled to receive rent immediately from him may, instead of suing for the arrear as hereinafter provided, recover the same by distress and sale of the produce of the land in respect of which the arrear is due, under the rules contained in this chapter.

**57. Provided—**

(a) that when a cultivator has given security for the payment of his rent,

barred by security given for rent.

the produce of the land for the rent of which security has

been given shall not be liable to be distrained:

(b) that no sharer in any mahál shall have

power to distrain upon any cultivator unless he is entitled to collect the whole rent

from such cultivator:

(c) that no sharer in a joint undivided, mahál

shall exercise such power otherwise than through a manager authorized to collect the rents of the

whole mahál on behalf of all the sharers therein:

(d) that in pattidári maháls distress shall be

made only through a lambardár, or, where the rent of a

patti is not collected by a lambardár, through the pattidár who is entitled to collect the rent.

**58. A distress shall not be made for any arrear**

No distress for over-due arrear, nor, without agreement, for excess period than one year:

nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless the rent has been enhanced under the provisions hereinbefore contained, or by order of a Settlement-officer, or unless the cultivator has agreed to pay such excess and such agreement has been attested before the kanungo.

**59. The power to distrain conferred by sections**

Distress by managers under Court of Wards, 56 and 57 may be exercised by managers under the

Court of Wards and other persons lawfully entrusted with the charge of immoveable property;

and also by the agents employed by such persons as aforesaid, in the collection of rent, if expressly authorized by power-of-attorney in that behalf:

If any wrongful act is committed by any such agent, under colour of the exercise of the said power, such agent and his principal shall be jointly and severally liable to make compensation for such act.

**60. When any person, empowered to distrain**

Written authority to property under section 56, servants employed to section 57 or section 59, distrain.

employs a servant or other person to make the distress, he shall give him a written authority for the same, and the distress shall be made in the name of the person giving such authority.

**61. Standing crops and other ungathered pro-**

Standing crops and duets of the earth, and crops gathered liable to or other products when

reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with power to distrain under the provisions of this Act.

But no such crops or products, other than the

Exception. produce of the land in re-

spect of which an arrear of rent is due, or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to be distrained under this Act.

**62. Before or at the time when a distress is**

Defaulter to be served made under this Act, the with written demand distrainer shall cause the and account.

defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be

Mode of service. served personally on the defaulter; or, if he abscond or conceal himself, so that they cannot be so served, shall be affixed at his usual place of residence.

**63. Unless the amount of the demand is imme-**

Distress to be propor- diately paid or tendered, the tionate to arrear. distrainer may distrain prop-

erty as aforesaid equal in value, as nearly as

List of property to be may be, to the amount of the prepared and copy served arrear and the costs of the on owner.

distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or, if he be absent, affix it at his usual place of residence.

**64(a). Standing crops and other ungathered pro-**

Standing crops, &c., ducts may, notwithstanding when distrained, be the distress, be reaped and

gathered by the cultivator, and he may store the same in such granaries or other places as are commonly used by him for the purpose.

(b). If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

(c). In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

(d). Crops or products which, from their nature,

Sale of products which do not admit of being stored, cannot be stored.

may be sold before they are reaped or gathered, under the rules hereinafter provided; but in such case, the distress shall be made at least twenty days before the time when the crops, or products, or any part of the same are fit for reaping or gathering.

**65.** If a distrainer is opposed, or apprehends resistance, and desires to oppose or apprehending obtain the assistance of a public officer, he may apply to the Collector of the District or Assistant Collector, who may, if he thinks necessary, depute an officer to assist the distrainer in making the distress.

**66.** If at any time after property has been dis-  
Distress to be withdrawn. trained and before the day drawn on tender of arrear and expenses before sale, fixed for putting it up to sale as hereinafter provided, the owner of the property ten-

ders payment of the arrear demanded of him, and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

**67.** Within five days from the time of the stor-  
Application for sale. ing of any distrained crops

or, if the crops or products do not, from their nature, admit of being stored within five days from the time of making the distress,

the distrainer shall apply for sale of the same to the officer for the time being authorized by the Local Government to sell distrained property within the tahsîl in which they are situate.

Contents of application.

**68.** The application shall be in writing, and shall contain—

- (a) an inventory or description of the property distrained,
- (b) the name of the defaulter and his place of residence,
- (c) the amount due, and the date of the distress, and
- (d) the place in which the distrained property is.

Together with the application, the distrainer Fee for service of notice. shall deliver to the said officer the fee for the service of a notice upon the defaulter as hereinafter provided.

**69.** Immediately on receipt of the application, Procedure on receipt of application. the said officer shall send a copy of it to the Collector of the District or Assistant Collector,

and shall serve a notice in the form (C) contained in the first schedule hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector of the District or Assistant Collector, within the period of fifteen days from the receipt of the notice.

He shall at the same time send to the Collector of the District or Assistant Collector, for the purpose of being put up in his office and in the office of the tahsîldâr, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain—

- (a) a description of the property, and shall specify—
- (b) the demand for which it is to be sold, and
- (c) the place where the sale is to be held.

**70.** If a suit is instituted before the Collector of

Suspension of sale on receipt of Collector's certificate of institution of suit. the District or Assistant Collector in pursuance of the aforesaid notice, the Collector

of the District or Assistant Collector shall send to the officer referred to in section 67, or, if so requested, shall deliver to the owner of the distrained property, a certificate of the institution of such suit;

and on such certificate being received by, or presented to, the said officer, he shall suspend the sale.

**71.** A person whose property has been distrained

Suit to contest distress. in manner hereinbefore pro-  
traiiner's demand before vided may, immediately after issue of notice of sale. the distress, and before the issue of notice of sale, institute a suit to contest the demand of the distrainer.

When such suit is instituted, the Collector of the District or Assistant Collector shall proceed in the manner prescribed in the last preceding section.

If, thereafter, application for the sale of the property is made to the said officer, he shall send a copy of the application to the Collector of the District or Assistant Collector, and suspend further proceedings, pending the decision of the case.

**72.** The person whose property has been dis-

trained may, at the time of instituting any such suit as Distress when to be withdrawn. aforesaid, or at any subsequent period, execute a bond with a surety, binding himself to pay whatever sum may be adjudged to be due from him, with interest and costs of suit;

and when such bond is executed, the Collector of the District or Assistant Collector shall give to the owner of the property a certificate to that effect, and, if so requested, shall serve the distrainer with notice of the same;

and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Collector of the District or Assistant Collector, the property shall be released from distress.

**73.** If the institution of a suit to contest the

When sale may be proceeded with. demand of the distrainer has not been certified, in manner hereinbefore provided, to the said officer, on or before the day fixed in the proclamation of sale, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, in manner hereinafter mentioned, to sell the property or such part of it as may be necessary to satisfy the demand with the costs of distress and sale.

**74.** The sale shall be held at the place where

Place of sale. the distrained property is, or at the nearest place of public resort, if the said officer is of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction, in one or more lots, as the officer holding the sale may think advisable;

and if the demand, with the costs of distress Withdrawal of distress and sale, be satisfied by the when demand and costs sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

**75.** If, on the property being put up for sale, a fair price be not offered, sale may be postponed and shall be then completed.

and if the owner of the property, or some person authorized to act on his behalf, apply to have the sale postponed until the next day, or, if a market be held at the place of sale, the next market-day, the sale shall be postponed until such day and shall be then completed whatever price may be offered for the property.

**76.** The price of every lot shall be paid for in ready money at the time of sale, or as soon thereafter as

the officer holding the sale thinks necessary; and, in default of such payment, the property

shall be put up again and sold, and the deficiency in price (if any) which may happen on such second sale and all expenses attending such second sale shall, at the instance either of the distrainer or the owner of the property, be recoverable from the defaulter under the rules hereinafter contained for the execution of a decree for rent.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

**77.** From the proceeds of every sale of distrained property under this Act, the officer holding the sale shall

make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall send the amount so deducted to the Collector of the District or Assistant Collector.

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress, and

of the issue of the notice and proclamation of sale prescribed in section 69, to such amount as, after examining the statement of expenses furnished by the distrainer, he thinks proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale;

and the surplus (if any) shall be delivered to the person whose property has been sold.

**78.** Officers holding sales of property under this Act, and all persons employed by or subordinate to such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

**79.** Officers holding sales under this Chapter are required to bring to the notice of the Collector of the District or Assistant Collector any material irregularities committed by distrainers under colour of this Act;

and if, in any case, on proceeding to hold any such sale, the officer holding it find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report

the case to the Collector of the District or Assistant Collector, who shall thereupon direct the issue of another notice and proclamation of sale under section 69, or pass such other order as he thinks fit.

**80.** When an officer goes to any place for the purpose of holding a sale, and no sale takes place, either for the reason stated in section 79, or because the demand of the distrainer has been previously satisfied without any intimation of such satisfaction having been given by the distrainer to such officer, the charge of one anna in the rupee on account of expenses shall be leviable, and shall be calculated on the estimated value of the distrained property.

If the distrainer's demand be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property, and may be recovered by the sale of such portion thereof as may be necessary.

In every other case it shall be paid by the distrainer, and may be recovered by attachment and sale of his property under the warrant of the Collector of the District or Assistant Collector:

Provided that in no case shall a larger amount than ten rupees be recoverable under this section.

**81.** When a suit has been instituted to contest the demand of a distrainer, and the distrained property has not been released on security, if the demand or any portion of it is adjudged to be due, the Collector of the District or Assistant Collector shall issue an order to the officer authorizing the sale of such property;

and, on the application of the distrainer within five days from the receipt of such order by the officer, such officer shall publish a second proclamation in the manner prescribed in section 69, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation;

and, unless the amount adjudged to be due with the costs of distress be paid, shall proceed to sell the property in the manner hereinbefore provided.

**82.** (a) In all suits instituted to contest the demand, distrainer to be required to prove the provo arrear. if he had himself brought a suit for the amount under the provisions hereinafter contained.

(b) If the demand or any part thereof is found to be due, the Collector of the District or Assistant Collector shall make a decree for the amount in favour of the distrainer, and such amount may be recovered by sale of the property, as provided in the last preceding section, if the distress has not been withdrawn;

and, if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter,

or if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

(e) If the distress is adjudged to be vexatious or groundless, the Collector of Compensation in case of vexatious distress. the District or Assistant Collector, besides directing the release of the distrained property, may award such compensation to the plaintiff as the circumstances of the case require.

**83. (a)** If any person claim as his own, property which has been distrained for arrears of rent alleged to be due from any other person, one from another, the claimant may institute a

suit against the distrainer and such other person, to try the right to the property, in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

(b) When any such suit is instituted, the property may be released upon security being given for the value of the same.

(c) If the claim is dismissed, the Collector of the Order of Collector when claim dismissed. District or Assistant Collector shall make an order for the sale of the property, or for the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

(d) If the claim is upheld, the Collector of the Decree for release and compensation when claim upheld. District or Assistant Collector shall decree the release of the distrained property with costs, and such compensation (if any) as the circumstances of the case require:

(e) Provided that no claim to any produce of land liable to distress under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any civil Court prevail against such prior claim.

**84. If, in any case in which property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, the right to distrain for such arrears is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the time of the commencement of the suit shall be enquired into, and in deciding the suit the result of such inquiry shall be taken into consideration :**

Provided that the decision of the Collector of the District or Assistant Collector shall not affect the right of any person who may have

a legal title to the rent of the land to establish his title by suit in the civil Court if instituted within one year from the date of the decision.

**85. If any person whose property has been distrained for the recovery of a demand not justly due, or of some property from sale a demand due or alleged to be due from some other**

person, is prevented by any sufficient cause from bringing a suit to contest the demand or to try the right to the property, as the case may be, within the period allowed by section 69 or 83, and his property is in consequence sold, he may, nevertheless, institute a suit under this Act to recover compensation for such distress and sale.

**86. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so em-**

powered, distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged, or destroyed by reason of the distrainer not having taken proper precautions for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when it is required to be withdrawn by any provision of this Act,

the owner of the property may institute a suit under this Act to recover compensation for any injury which he has thereby sustained through any act or omission mentioned in the former part of this section.

**87. If any person not empowered to distrain**

Suit by owner against property under section 56, person distraining or 57 or 59, nor employed selling without authority for the purpose under a written authority by a person

so empowered, fraudulently distrains or sells, or causes to be sold, any property under colour of this Act, the owner of the property so distrained or sold may institute a suit under this Act to recover compensation from such person for any injury which the plaintiff has sustained from the distress or sale,

and the defendant shall be held to have committed criminal trespass, and shall be subject to the penalties provided for that offence by the Indian Penal Code, in addition to any damages which may be awarded against him in such suit.

**88. Provided that every suit instituted under**

Limitation of suits any of the three last preceding sections shall be commenced within the period allowed by section 94.

**89. (a) If any person resists a distress of pro-**

Procedure in case of property duly made under this resistance of distress. Act, or forcibly or clandestinely removes any distrained property, the Collector of the District or Assistant Collector in charge of the Sub-division, upon complaint being made within fifteen days from the date of such resistance or removal, may cause the person accused to be arrested and brought with all convenient speed before the Collector or Assistant Collector, who shall, if possible, proceed forthwith to try the case.

(b) If the case cannot be at once heard, the Collector of the District or Assistant Collector may, if he think fit, require the party arrested to give

security for his person, and, in default of such security, may commit him to the civil jail until the case is tried,

and if the offence be proved and the offender be the owner of the property concerned, the Collector of the District or Assistant Collector may order him to be imprisoned in the civil jail for a term not exceeding six months, unless the whole arrear due to the distrainer, with all reasonable expenses and costs, is previously to the expiration of such term paid or levied under warrant of the Collector of the District or Assistant Collector by distress and sale of the property of the offender.

(c) If the offender be not the owner of the property concerned, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment in the civil jail for a term which may extend to two months.

**90.** All proceedings of officers distraining, or Proceedings of officers assisting distrainers, or subject to revision and holding sales, under this orders of Collector. chapter, shall be subject to the revision and orders of the Collector of the District or Assistant Collector in charge of a Sub-division of the District.

#### CHAPTER IV.

##### PROCESS.

**91.** (a) Every process issued by a Collector of a Mode of serving pro. District or Assistant Collector under this Act shall be under his seal and signature, and shall be served or executed by the Názir, or by such other officer as the Collector of the District or the Assistant Collector may direct, at the cost of the party at whose instance it is issued.

(b) The amount of such cost, and, in the case of Deposit before issue. summons to a witness, the sum required for his travelling expenses, shall be deposited in Court before the process is issued:

(c) Provided that, if in any case the Collector of Power to direct ser. the District or the Assistant vice gratis. Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

**92.** Any resistance or opposition to the lawful Punishment for resist. process of a Collector of the District or Assistant Collector under this Act may be punished by him according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.

When, in any such case, the offender is not Power to issue sum. present, the Collector of the mons and warrant. District or Assistant Collector may summon him to answer to the charge; and, if after due service of the summons he fails to attend, may issue a warrant for his arrest.

#### CHAPTER V.

##### JURISDICTION OF COURTS.

**93.** Except in the way of appeal as hereinafter Suits cognizable by provided, no Courts other revenue Courts only. than Courts of Revenue shall take cognizance of any dispute or matter in which

any suit of the nature mentioned in this section might be brought, and such suits shall be heard and determined in the said Courts of Revenue in the manner provided in this Act, and not otherwise:

(a) suits for arrears of rent, or, where rent is payable in kind, for the money-equivalent of rent, on account of land or on account of any rights of pasturage, forest-rights, fisheries or the like;

(b) suits to eject a tenant for any act or omission detrimental to the land in his occupation or inconsistent with the purpose for which the land was let;

(c) suits to cancel a lease for the breach of any condition binding on the tenant, and which, by law, custom or special agreement, involves the forfeiture of the lease;

(cc) suits for compensation for, or to prohibit, any act, omission or breach mentioned in clause (b) or clause (e);

(d) suits for the recovery of any over-payment of rent, or for compensation under section 48 or 49;

(e) suits for compensation for withholding receipt for rent paid;

(f) suits for contesting the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in the exercise of the said power, or for compensation for wrongful acts or omissions of a distrainer;

(g) suits by lambardárs for arrears of Government-revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues for which the co-sharers may be responsible to the lambardár;

(h) suits by recorded co-sharers for their recorded share of the profits of a mahál, or any part thereof, after payment of the Government-revenue and village-expenses, or for a settlement of accounts;

(i) suits by muáfídárs, or assignees of the Government-revenue, for arrears of revenue due to them as such;

(j) suits by taluqdárs and other superior proprietors for arrears of revenue due to them as such;

(k) suits by recorded co-sharers to recover from a recorded co-sharer who defaults arrears of revenue paid by them on his account.

**94.** Suits for arrears of rent or revenue, or for a Limitation of suits share of the profits of a under this Act. mahál, or of village-expenses or other dues, shall not be brought after three years from the day on which the arrears or share became due.

Suits relating to distress, not being suits to contest the demand or to try the right to the property, shall not be brought after three months from the day on which the right to sue accrued:

All other suits must be brought within one year from the day on which the right to sue accrues, unless otherwise specially provided for in this Act.

The day on which the arrears become due or the day on which the right to sue accrues (as the case may be) shall be excluded in computing the periods of limitation prescribed by this section.

In the absence of any express agreement among the co-sharers and of any order by the Settlement-officer under the North-Western Provinces Land-revenue Act, 1873, section 65, clause (g), the

Board may from time to time, with the previous sanction of the Local Government, make rules for fixing the dates on which profits shall be divisible by the lāmbārdārs.

**95. No Courts other than Courts of revenue**

Applications cognitio-  
nable by revenue Courts shall take cognizance of any dispute or matter on which only, any application of the nature mentioned in this section might be made : and such applications shall be heard and determined in the said Courts in manner provided under this Act, and not otherwise :—

(a) Application to determine the nature and class of a tenant's tenure, under section 10.

(b) Application by a landholder, or his agent, to compel a patwārī to produce his accounts relating to land.

(c) Application to resume rent-free grants under section 30, or to assess to rent land previously held rent-free.

(d) Application from a landholder to eject a tenant under section 35, or to have a notice of ejectment issued and served under section 38.

(e) Applications made by a tenant under section 39.

(f) Application from a landholder, under section 40, for assistance to eject a tenant.

(g) Application from a tenant or landholder to determine the value of any standing crop, or ungathered products of the earth, belonging to the tenant and being on the land at the time of his ejection, under section 42.

(h) Application by a landholder to determine rent payable for land used by a tenant for the purpose of tending or gathering in the crop, under section 42.

(i) Application by a landholder or tenant for assistance in the division or appraisement of a standing crop, under section 43.

(j) Application by a landholder or tenant to determine compensation for improvements of land.

(k) Application by a tenant for leave to deposit rent.

(l) Application for enhancement or determination of rent.

(m) Application for compensation for wrongful dispossess.

(n) Application for the recovery of the occupancy of any land of which a tenant has been wrongfully dispossessed.

(o) Application for abatement of rent.

(p) Application for leases or counterparts, and for the determination of the rates of rent at which such leases or counterparts are to be delivered.

(q) Application under section 7 to have the holding of an ex-proprietary tenant divided off.

(r) Application under section 22A to survey land.

(s) Application under section 33A to have a notice of relinquishment declared invalid.

(t) Application to take out of deposit any amount deposited under section 55A.

For the purposes of the Court-fees Act, 1870, applications under clauses (c), (l), (m), (n), (o) and (p) of this section shall be deemed to be plaints in suits.

**95A. When any order has been made on an application under this Act, no process for the execution of such order shall be issued on an application made after the lapse of one year from the date of such order, except when special provision is otherwise made in this Act.**

Points of procedure relating to applications under section 95. All applications under section 95 shall be made in the district in which the land, crops or products referred to is or are situate.

(b) All orders passed on applications under section 95 shall be proved in the same manner, and when proved shall have the same effect, as if they were judgments of the civil Courts.

(c) In cases wherein a specific sum of money is adjudged to be due, or any costs or damages are awarded, all such orders may be executed by any process in use for the recovery of an arrear of revenue or rent.

(d) In cases wherein possession of immoveable property is adjudged, the officer making the award may deliver over possession in the same manner, and with the same power, in regard to contempts, resistance and the like, as may be lawfully exercised by the civil Courts in execution of their own decrees.

(e) Applications under clauses (m) and (n) of section 95 shall not be brought after six months from the date of the wrongful dispossession.

**96A. All suits and applications under this Act**

Reference to arbitration. Act may, with the consent of the parties, be referred to arbitration under section 220 to section 281 (both inclusive) of the North-Western Provinces Land-revenue Act, 1873.

**97. The Local Government may invest any officer with the powers of an Assistant Collector of the first or second class under this Act, and may at any time withdraw such powers.**

**98. Assistant Collectors of either class shall**

Suits and applications cognizable by Assistant Collectors. have, as such, power to try suits and applications of the following descriptions :—

(a) suits for arrears of rent or the money equivalent of rent on account of land, or on account of any rights of pasture, forest rights, fisheries or the like ;

(b) suits for compensation for withholding receipts for rent paid, under section 48 ;

(c) suits to contest the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in exercise of the said powers, or for compensation for wrongful acts or omissions of a distrainer ;

(d) suits by lāmbārdārs for arrears of Government-revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues, for which the co-sharers may be responsible to the lāmbārdār ;

(e) suits by muāfidārs or assignees of the Government-revenue for arrears of revenue due to them as such ;

(f) suits by taluqdārs or other superior proprietors for arrears of revenue due to them as such ;

(g) applications by a landholder, or by an agent employed by a landholder, to compel the production of accounts by patwāris ;

(h) applications by a tenant or landholder to determine the value of any standing crops or ungathered products of the earth, and being on the land at the time of his ejection, under section 42 ;

(i) applications by a landholder to determine the amount of rent payable by a tenant using land for the purpose of tending or gathering in crops, under section 42 ;

(j) applications by a landholder or a tenant for assistance in the division or appraisement of standing crops, under section 43;

(k) applications by tenants for leave to deposit rent;

(l) suits under section 98, clause (k), to recover arrears of revenue.

(m) applications under section 22A to survey land.

**99. Assistant Collectors of the first class,** in Additional suits and applications triable by Assistant Collectors, first class, shall have power to try suits and applications of the

following descriptions:—

(a) suits to eject a tenant for any act or omission detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let;

(b) suits to cancel a lease for any breach of any condition binding on the tenant;

(bb) suits for compensation for, or to prohibit, any act, omission or breach mentioned in clause (a) or clause (b);

(c) suits for the recovery of any over-payment of rent or for compensation, under section 48 or section 49;

(d) suits by co-sharers for their shares of the profits of a mahál or any part thereof, after payment of the Government-revenue and village-expenses, or for a settlement of accounts;

(e) applications by a landholder to eject a tenant, under section 35;

(f) applications under section 39 by a tenant contesting notice of ejectment;

(g) applications by a landholder under section 40, for assistance to eject a tenant on whom notice of ejectment has been served;

(h) applications for compensation for wrongful dispossession;

(i) applications by a landholder or tenant to determine the amount to be paid as compensation for improvements;

(j) applications to recover the occupancy of any land from which a tenant has been wrongfully dispossessed by the landholder;

(k) applications under section 30 for the resumption of rent-free grants or for the assessment to rent of land hitherto held rent-free;

(l) applications under section 7 to have the holding of an ex-proprietary tenant divided off;

(m) applications under section 38 A to have a notice of relinquishment declared invalid;

(n) applications to take out of deposit amounts deposited under section 55A.

**100. In addition to the powers specified in sections 98 and 99, an Assistant Collector of the first class, specially empowered by Government in this behalf, shall have power to try the following applications:**

(a) applications for enhancement or determination of rent;

(b) applications for abatement of rent;

(c) applications for leases or counterparts, and the determination of the rates of rent at which such leases or counterparts are to be delivered;

(d) applications to determine the nature or class of a tenant's tenure.

**101. The Collector of the District, or any Assistant Collector in charge of a sub-division of a district, may make over any case, or**

class of cases, for inquiry and decision, from his own file, to any of his subordinates competent to deal with such case or class of cases under the provisions of this Act.

#### 102. Collectors of Districts, and Assistant Col-

lectors in charge of sub- divisions of districts, may,

respectively, withdraw any case or class of cases from any officers subordinate to them, and may deal with such case or class of cases themselves, or refer it for disposal to any other such Revenue-officer competent to deal with the same under the provisions of this Act.

#### 103. The Collector of the District may exercise—

Powers exercisable by Collector of District. (a) all powers given by this Act to Collectors of Districts,

(b) all powers which by this Act are conferred, or can be conferred, on Assistant Collectors.

The Local Government may invest any officer

Investment of officer in charge of a sub-division with powers of Collector of District. in charge of a sub-division of a district with all or any of the powers conferred by this Act on a Collector of a District.

In conferring powers under this Act, the Local Mode of conferring Government may empower powers. persons specially by name, or classes of officials generally by their official titles.

### CHAPTER VI.

#### PROCEDURE IN SUITS UP TO JUDGMENT.

##### 104. Suits under this Act shall be instituted in

Place of instituting the district in which the suits. subject of the suit, or some part thereof, is situate,

and all such suits shall be commenced by presenting to the Court a plaint, Plaintiff, which shall contain—

(a) the name, description and place of abode of the plaintiff;

(b) the name, description and place of abode of the defendant, so far as they can be ascertained;

(c) the subject-matter of the claim, and its amount or value computed according to the Court-fees Act, 1870; and

(d) the date on which the right to sue accrued.

##### 105. For the purpose of suing or being sued

Managers of maháls to under this Act, the managers, for purpose of litigation, deemed landholders. under the Court of Wards or under direct management, shall be deemed to be landholders.

##### 106. No co-sharer in an undivided property shall,

Suits by co-shares in undivided property. in that character, be entitled separately to sue a tenant under this Act, unless he is

authorized to receive from such tenant the whole of the rent payable by such tenant; but nothing in this section shall affect any local custom or any special contract.

##### 107. The plaint shall be presented by the Plaintiff by whom pre- sents.

authorized on his behalf, who has personal knowledge of the facts of the case, or by an agent accompanied by a person who has such knowledge.

The plaint shall be subscribed and verified at the Verification of plaint. foot by the plaintiff or his agent in the manner following, or to the like effect:—

"I, A. B., the plaintiff named in the above plaint, do declare that what is stated therein is true to the best of my knowledge and belief."

If the plaint contains any averment which the False averment. person making the verification knows or believes to be false, or does not know or believe to be true, he shall be punishable according to the law for the punishment of giving or fabricating false evidence.

**108.** If the plaintiff rely in support of his claim Document relied on by plaintiff to be presented with plaint. on any document in his possession, he shall deliver the same to the Court at the time of presenting his plaint.

Unless such document be so delivered, or its Admission afterwards. non-production be sufficiently excused, or unless the Court see fit to extend the time for producing the same, it shall not afterwards be admitted.

**109.** If the plaintiff require the production of Procuring production of document in possession of defendant. any document in the possession or power of the defendant, he may, at the time of presenting his plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

**110.** If the suit be for the recovery of an arrear Plaintiff in suits for arrears of rent. of rent or revenue, or of a share of profits or village-expenses, or other dues under section 93, the plaintiff shall specify the name of the village and estate, and of the pargana or other local division in which the land is situate:

and, if the suit be for an arrear of rent alleged to be due from any tenant, the plaintiff shall also specify the quantity of land, and (where fields have been numbered in a Government-survey) the number of each field, and yearly rent of the land; the amount (if any) received on account of the year for which the claim is made; and in all cases coming under this section the plaintiff shall specify the amount in arrear, and the time in respect of which it is alleged to be due.

**111.** If the suit be for the ejectment of a tenant Plaintiff in suits for ejectment. from any land, the plaintiff shall describe (as circumstances may require) the extent, situation and designation of the land; and, if necessary for its identification, shall set forth its boundaries.

**112.** If the plaint do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Court may, at its discretion, return it to the plaintiff, or allow it to be amended.

**112A.** The Court may, on or before the first hearing upon the application of either party, and on such terms as the Court thinks just, order that the name of any party, whether as plaintiff or as defendant, improperly joined, be struck out;

and the Court may at any time, either upon or without such application, and on such terms as the Court thinks just, order that any plaintiff be made a defendant, or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

No person shall be added as a plaintiff without his own consent thereto.

All parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned, and the proceedings as against them shall be deemed to have begun only on the service of such summons:

Provided that, when a defendant dies and the suit is continued against his legal representative, it shall, as regards him, be deemed to have been instituted when it was instituted against the deceased defendant.

**112B.** Where a defendant is added, the plaint, if previously filed, shall, unless the Court directs otherwise, be amended in such manner as may be necessary, and an amended copy of the summons shall be served on the new defendant and the original defendants.

**112C.** All objections for want of parties, or for Time for taking objec- joinder of parties who have tions as to non-joinder no interest in the suit, or or mis-joinder of parties. for mis-joinder as co-plaintiffs or co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the first hearing, and any such objection not so taken shall be deemed to have been waived by the defendant.

**112D.** If the plaint be admitted, the plaintiff shall present as many copies Procedure on admit- on plain paper of the plaint ting plaint. as there are defendants, unless the Court, by reason of the length of the plaint, or the number of the defendants, or for any other sufficient reason, permits him to present a like number of concise statements. Concise statements. statements of the nature of the claim made, or of the relief or remedy required in the suit, in which case he shall present such statements.

**113.** If the plaint be in proper form, the Court, Issue of summons. except as otherwise herein-after specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and Order for personal attendance or appearance by agent. satisfy the Court that such attendance is necessary, or the Court of its own accord require such attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons.

If the plaintiff or the Court does not require the personal attendance of the defendant, the summons shall order the defendant to appear either personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or is accompanied by a person who has such personal knowledge.

**114.** The day to be specified in the summons  
Fixing of day to be shall be fixed with reference  
specified in the sum- to the state of the file and  
mons. the distance that the defendant  
may be or be supposed to be at the time from  
the place where the Court is held,

and the summons shall order the defendant to  
Order to produce docu- produce any document in his  
ments. possession or power of which  
the plaintiff demands inspection,  
or upon which the defendant relies in support  
of his defence.

It shall also direct him to bring with him his  
Order to bring wit- witnesses, if they are willing  
nesses. to attend without issue of  
process,

and it shall be in the form (D) contained in the  
Form of summons. first schedule hereto annexed,  
or to the like effect.

It shall be accompanied with one of the copies  
Copy or statement or concise statements men-  
annexed to summons. tioned in section 112 D.

**115.** The summons shall be served by delivering  
Mode of serving sum- a copy thereof to the defendant  
mons. personally when practicable;

or, if the copy cannot be delivered to the defendant  
personally, by affixing copy of the summons  
to some conspicuous part of his usual residence,  
and also affixing a copy of the same in the Court.

**116.** If the summons be served by delivering a  
Endorsement on sum- copy to the defendant per-  
mons. sonally, the Názir shall  
endorse on the summons the  
fact of such service.

If personal service be not effected, the Názir  
shall endorse on the summons the reason of not  
serving it personally, and how it has been served.

**117.** If the usual residence of the defendant be  
Service of summons in another district, the sum-  
mons shall be sent by the  
public post to the Collector  
of such district, who shall issue the summons, and  
return the same, after service, with the prescribed  
endorsement, to the officer by whom it was trans-  
mitted to him.

**117A.** If the defendant resides out of British  
Service when defend- India, and has no agent in  
ant resides out of Brit- British India empowered to  
ish India and has no accept the service, the sum-  
agent to accept service. mons shall be addressed to  
the defendant at the place where he is residing,  
and forwarded to him by post, if there be postal  
communication between such place and the place  
where the Court is situate.

**117B.** If there be a British Resident or Agent  
Service through Brit- of Government in or for the  
ish Resident or Agent of territory in which the defend-  
Government. ant resides, the summons  
may be sent to such Resident or Agent by post or  
otherwise for the purpose of being served upon the  
defendant; and if the Resident or Agent return  
the summons with an endorsement under his  
hand that the summons has been served on the  
defendant in manner hereinbefore directed, such  
endorsement shall be conclusive evidence of such  
service.

**118.** The amount of the cost of serving the summons,  
Deposit of cost of serv- or, if a warrant be issued as provided in the next  
ing summons or warrant. following section, of serving the warrant,

shall in all cases be deposited in Court by the  
plaintiff within such time before the issue of such  
summons or warrant as is fixed by the Court issuing  
the process.

If the said amount be not so deposited (except  
Effect of failure to deposit. where the Court in exercise  
of the discretion reserved to  
it in section 91 allows the summons to be served  
gratis), the case shall be struck out of the list  
of pending suits;

but in such case the plaintiff may present another  
plaint at any time within the period allowed  
by the rules herein contained for the limitation of  
suits.

**119.** (a) If in any suit against a tenant for the  
Procedure when plaint- recovery of an arrear of rent,  
iff desires issue of war- or in any suit for the recov-  
rant of arrest. very of an arrear of revenue,  
or a share of profits or village-expenses or other  
dues, the plaintiff desires a warrant of arrest to be  
issued against the defendant, such defendant being  
resident within the district in which the suit is  
instituted, the plaintiff shall present, with his  
plaint, an application for the issue of such warrant.

(b) When such application is presented, the  
Court shall examine the plaintiff or his agent,  
and inspect the documents adduced by him in  
support of his claim; and if *prima facie* it appear to  
the Court that the claim is well founded, and that,  
if a summons be issued, the defendant will abscond  
instead of appearing to answer the claim, the  
Court may issue a warrant for his arrest.

(c) The Court shall fix a reasonable time for the  
return of the warrant, and the officer entrusted  
with the service thereof shall, at the time of arresting  
the defendant, deliver to him one of the copies  
or concise statements mentioned in section 112 D  
and a notice requiring him, if he contest the claim,  
to bring with him any document upon which he  
relies in support of his defence.

(d) Every warrant issued and notice delivered  
under this section shall be respectively in the  
forms (E) and (F) in the first schedule hereto  
annexed, or to the like effect.

**120.** If a defendant be arrested under the war-  
Procedure after arrest rant of arrest, he shall be  
of defendant. brought with all convenient  
speed before the Court.

**121.** When a defendant is brought before the  
Procedure when de- Court under warrant, the  
fendant is brought before Court shall, with all conve-  
Court under warrant. nient speed, proceed to try  
the case in the manner hereinafter provided,

and if the suit cannot be at once adjudicated,  
the Court may, if it think fit, require the defendant  
to give security for his appearance whenever  
the same may be required at any time whilst the  
suit is pending, or until execution of the final  
decree which may be passed thereon,

and may commit him to the civil jail to be there  
detained until he furnishes such security or de-  
posits such sum as the Court orders.

The security-bond shall be in the form (G) con-  
Form of security. tained in the first schedule  
bond. hereto annexed, or to the  
like effect.

**122.** If the defendant cannot be arrested under Procedure when do. the warrant, the Court, on defendant cannot be arrested. the application of the plaintiff iff, shall either postpone the case for such period as to it seems proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation, to be affixed in its own office and at the residence of the defendant, appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice, at the residence of the defendant.

If the defendant appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

**123.** If it appear to the Court that the arrest of Compensation for arrest applied for without reasonable cause. the defendant was applied for without reasonable cause, the Court may, in its decree, award to him such sum not exceeding one hundred rupees as it may deem a reasonable compensation for any injury or loss which he has sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

**124.** If on the day fixed by the summons or Consequence of neither party appearing on day fixed. proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

**125.** If on any such day only the defendant appears, the Court shall pass judgment by default. Judgment by default. judgment against the plaintiff, unless the defendant admits the plaintiff's right to the relief mission of claim. which he claims, in which case the Court shall proceed to give judgment for the plaintiff upon such admission without costs:

Provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

**126.** If on any such day the plaintiff only appears, the Court, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or other evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

**127.** If the defendant appear on any subsequent adjourned hearing, Court may allow him to be heard in answer. day to which the hearing of the suit is postponed under the last preceding section, the Court may, upon such conditions, if any, as to costs or otherwise as it thinks proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

**128.** (a) No appeal shall lie from a judgment No appeal from judgment passed *ex parte* against a defendant *ex parte* or by default; or from a judgment against a plaintiff by default for non-appearance.

(b) But in all such cases, if the party against but Court may revive whom judgment has been unit and alter or rescind given appears, either in person or by agent, if a plaintiff, within fifteen days from the date of the Court's decree, and, if a defendant, within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Court that there has been a failure of justice, the Court may, upon such terms as to costs or otherwise as it thinks proper, revive the suit and alter or rescind the judgment according to the justice of the case.

(c) But no judgment shall be reversed or altered Adverse party to be summoned. by whom he appears, or any summoning the adverse party to appear and be heard in support of it.

**129.** When both parties appear in person or by Examination. agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Court, the Court shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other party or his agent.

**130.** If either of the parties be not bound to attend personally, any agent Examination and cross-examination of agents. by whom he appears, or any person accompanying such agent, may be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

**131.** At the time of the examination, the defendant may file written statement. Defendant may file a written statement in his defence.

Such written statement shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and if it contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be punishable according to the law for the punishment of giving or fabricating false evidence.

**132.** The examination of the parties or their Mode of examination. agents, or such other persons as aforesaid, shall be according to the law for the time being in force relative to the examination of witnesses in the civil Courts.

The substance of the examination shall be reduced to writing in the mother-tongue of the presiding officer, and shall be filed with the record.

**133.** If either of the parties produce a witness Witness produced may be examined. on such day, the presiding officer may take the evidence of such witness.

**134.** If the defendant rely on any document in Document relied on by support of his defence, he defendant to be produced shall deliver the same into Court at the first hearing of the suit:

and unless such document be so delivered, or its non-production be sufficiently excused, or unless the presiding officer see fit to extend the time for delivering the same, it shall not afterwards be admitted.

**135.** If after the examination required by section 129, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Court shall make its decree accordingly.

**136.** If on such examination as aforesaid either Party to attend in person when his agent is unable to answer any material question relating to the case which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the case to a future day, and direct that the party whose agent was unable to answer as aforesaid shall attend in person on such day;

and if such party fails to appear in person on the day appointed, the Court may pass judgment as in case of default, or make such other order as it deems proper in the circumstances of the case.

**137.** If on such examination as aforesaid it appears that the parties are at issue on any question upon which it is necessary to hear further evidence, the Court shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Court.

**138.** The parties shall produce their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Court in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Court shall thereupon issue a summons requiring such witness to attend.

**139.** The law and rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the civil Courts, shall, except so far as may be inconsistent with the provisions herein contained, apply to suits under this Act.

**140.** If on the day fixed for the trial of any Case to be struck off issue neither of the parties if neither party appears appear, the case may be struck off, with liberty to the plaintiff to bring a fresh suit.

If on any such day one only of the parties appears, the issue may be tried Trial of issue ex parte, and determined in the absence of the other party, upon such evidence as may be then before the Court.

**141.** When suits under this Act are instituted

Provisions to apply when suits are instituted or defended by agents employed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such agents;

and anything which by this Act is required or permitted to be done by a party in person may be done by any such agent as aforesaid.

Processes served on any such agent shall be as Proceses served on such agents. effectual for all purposes in relation to the suit as if the same had been served on the landholder in person:

and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.

**142.** A female plaintiff or defendant shall not

Personal attendance of female plaintiff or defendant when not required. be required to attend in person, if she is of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

**143.** Any party to a suit may employ an authorized agent to conduct the case on his behalf:

but the employment of such agent shall not excuse the personal attendance of the plaintiff or defendant, in cases where his

Personal attendance when not excused. personal attendance is required by the summons, or any order of the Court;

and no fee for any agent shall be charged as

Fee for agents not chargeable as costs. part of the costs of suit in any case under this Act, unless the Court certifies that, under the circumstances of the case, such fee is proper to be allowed.

**144.** The Court may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit,

Court may grant time or adjourn hearing. and may also, from time to time, in order to the production of further evidence, or for other sufficient reason to be recorded by the Court, adjourn the hearing of any case to such day as to it may seem fit.

**145.** The presiding officer may, at any stage of a case, cause a local enquiry enquiry and report, or and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government, with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force relative to local inquiries by Amins or Commissioners, under orders of the civil Courts, shall apply to any local inquiry made by any officer under this section, and, so far as they are applicable, to inquiries made by the presiding officer of the Court in person.

In the latter case the presiding officer, after completing the inquiry, shall record such observations as appear to him appropriate, and the observations so recorded shall form part of the proceedings in the suit.

**146.** The defendant in any suit under this Act may pay into Court such admitted debt and costs sum of money as he thinks fit, a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sums shall be paid to the plaintiff.

If the defendant deposit less than the sum claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than has been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

**147.** No interest shall be allowed to a plaintiff on any sum paid by the defendant into the Court from the date of such payment, whether such sum be in full of the plaintiff's claim, or fall short thereof.

**148.** When, in any suit between a landholder and a tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the tenant is disputed on the ground that some third person has actually and in good faith received and enjoyed such rent before and up to the time when the right to sue accrued, such third person may be made a party to the suit, and the question of such receipt and enjoyment of the rent by such third person may be enquired into, and the suit shall be decided according to the result of such enquiry:

Provided that the decision of the Court shall not affect the right of either party entitled to the rent of such land to establish his title by suit in the civil Court, if instituted within one year from the date of the decision.

**149.** Whenever a decree is given for the ejectment of a tenant, or the cancellation of his lease, on account of any act or omission by which the land in his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it think fit, allow him to repair such damage within one month from the date of the decree, or order him to pay such compensation, within such time, or make such other order in the case, as the Court thinks fit, and if such damage be so repaired, or compensation so paid, or order obeyed, the decree shall not be executed.

**150.** Every judgment under this Chapter shall be pronounced in open Court.

**151.** The judgment shall be written in the mother-tongue of the presiding officer, and shall contain the reasons for the same, and shall be dated and signed by the presiding officer at the time it is pronounced:

Provided that, where his mother-tongue is not English, the judgment may be written in English, if he is able to write a clear and intelligible decision in that language.

**151A.** The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or proportion.

**151B.** Except as hereinbefore provided, the Court shall have full power to give and apportion costs of every suit in any manner it thinks fit; and the fact that the Court has no jurisdiction to try the case is no bar to the exercise of such power; but if the Court directs that the costs of any suit shall not follow the event, the Court shall state its reasons in writing.

**151C.** The Court may direct that the costs payable to one party by another shall be set off against sums admitted or found in the suit to be due from the former to the latter.

**151D.** Except as hereinbefore provided, the Court may give interest at any rate not exceeding six per cent. per annum, on any sum decreed or found to be due, or on costs.

**152.** Every officer invested with powers under this Act may hold a Court in any place within district for hearing and determining suits under this Act in any place within the limits of the district to which he is appointed.

Every hearing shall be in open Court, and the parties to the suit or their authorized agents shall have due notice to attend in such place.

## CHAPTER VII.

### PROCEDURE IN EXECUTION OF DECREES IN SUITS.

**153.** If the decree be for the ejectment of any tenant from land occupied by him, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree thereto.

If any opposition is made to the execution of the order for giving such possession or occupancy, by the party against whom the order is made, the Magistrate, on the application of the Collector of the District or Assistant Collector, shall give effect to the same.

**154.** If the decree be for the payment of arrears of rent or revenue, or of money, and the defendant has been committed to jail, or appear in Court pursuant to the conditions of any security-bond given under

section 121, the Collector of the District or Assistant Collector may order that he be detained in, or committed to, the civil jail, unless he immediately pays into Court the amount of the decree with costs, or otherwise complies with the terms of the decree.

**155. If the judgment-debtor has given security**

*Process against surety on failure to deliver judgment-debtor into custody.* for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

**156. (a). A writ of execution may be issued**

*Process of execution against person or property, but not both.* against either the person or the property of a judgment-debtor;

but process shall not be issued simultaneously against both person and property.

**(b). Such writ may be issued on the oral application**

*Applications on which it may issue.* of the judgment-creditor or his agent, made at the time the decree is passed, or, thereafter, upon the written application of the judgment-creditor or his agent.

**(c). Writ of execution against the person or**

*Form of writ of execution.* moveable property of a debtor shall be in the form (II) or (I) contained in the first schedule hereto annexed, or to the like effect.

**157. Any moveable property required to be**

*Execution against moveable property.* seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor;

but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects, to the amount of the judgment and costs.

In either case, the property to be seized shall be pointed out to the officer entrusted with execution of the process, by the creditor or his agent:

Provided that no implements of husbandry, or

*Articles exempted from attachment.* cattle actually employed in agriculture, or tools of artisans, or necessary wearing apparel of the judgment-debtor, his wife or children, shall be attached under this section.

**158. Every writ of execution shall bear date on**

*Date and duration of writs.* the day on which it is signed by the Collector of the District or Assistant Collector,

and shall continue in force for such period as he may direct (not being more than sixty days) calculated from such date.

**159. Second and successive writs of execution**

*Second and successive writs.* may be issued by order of the Collector of the District or Assistant Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

**160. Process of execution shall not be issued**

*After one year exemption not to issue without notice to party concerned.* upon any judgment, without previous notice to the party against whom execution is applied for, if, when appli-

cation for the issue of the process is made, a period of more than one year has elapsed from the date of the judgment, or from the date of the last previous application for execution.

**161. Execution on a judgment shall not issue**

*Execution not to issue against heir or representative of deceased party without notice.* against the heir or other representative of a deceased party, unless notice to appear and be heard has been previously served on such heir or other representative.

**162. No process of execution shall be issued on**

*No process of execution after three years, unless judgment be for sum exceeding 500 rupees.* a judgment under this Act, when the application for the issue of such process is made after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees;

in which case the period within which execution

*Regulation of period in such case.* may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the civil Court.

**163. If a writ issues for taking any person in**

*Procedure in execution of writ against person.* execution, the officer charged with the execution of the person, shall bring him with all convenient speed before the Collector of the District or Assistant Collector.

If such person does not then deposit in Court the full amount specified in the writ,

or make such arrangement for the payment of the same as is satisfactory to the judgment-creditor,

or satisfy the Collector of the District or Assistant Collector that he has no present means of paying the same amount,

the Collector of the District or Assistant Collector shall send him to the civil jail, there to remain for such time as may be directed by a warrant addressed to the keeper of the jail, unless in the meanwhile he pays the full amount for the payment of which he is liable under the decree:

Provided that the time for which a debtor may

*Limit of imprisonment.* be confined in execution of a decree under this Act shall not exceed three months when the amount decreed (exclusive of costs) does not exceed fifty rupees,

or six months when such amount does not exceed five hundred rupees,

or two years in any other case.

**164. (a.) Any person once discharged from jail**

*No person to be imprisoned a second time under same judgment.* shall not be imprisoned a second time under the same judgment.

**(b.) If the amount due under the decree does not**

*When further liability extinguished.* exceed one hundred rupees, the Collector of the District or Assistant Collector may declare him absolved from further liability under that decree, and such liability shall thereupon be extinguished.

*(c.) In other cases the discharge shall not extin-*

*When not extinguished.* guish the liability of the discharged person under the decree, or exempt any property belonging to him from attachment in execution of the same.

**165.** Every person applying for the issue of a Diet-money to be deposited at time of issue section 119, or suing out process of execution against the person of any judgment-debtor, shall deposit in Court, when the warrant issues, diet-money for thirty days at such rate not exceeding two annas per diem, as the Collector of the District or Assistant Collector may direct, unless for any special reason he directs that deposit be made at a higher rate, which shall not exceed four annas per diem.

**166.** Payment of diet-money at the same rate  
Effect of non-payment of diet-money in advance during imprisonment.  
shall be made previously to the commencement of each succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

**167.** All diet-money spent in providing subsistence for any prisoner costs in suit.  
shall be added to the costs in the suit,

and any diet-money not so spent shall be returned to the person who deposited the same.

**168.** In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation, specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be sent to the Collector of the District or Assistant Collector, and shall be affixed in his office.

**169.** No moveable property taken in execution Time to elapse before sale of moveable property under this Act shall be sold before the expiration of ten days next after the day on which such property is so taken.

Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the officer executing the writ.

The provisions of sections 74 to 78 (both inclusive), so far as the same are applicable, shall apply to sales under this section.

**170.** No irregularity in publishing or conducting a sale not vitiated by irregularity. shall vitiate such sale.

But any person injured by such irregularity may Right to sue for compensation.  
recover compensation for such injury by suit in the civil Court:

Limitation.  
Provided that such suit be brought within one year from the date of sale.

**171.** In the execution of any decree for the payment of arrears of rent or revenue, or of money, under this Act, if satisfaction of the judgment cannot be obtained by execution against

the person or moveable property of the debtor, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor, except the materials of buildings actually occupied by a debtor who is an agriculturist.

**172.** If the immoveable property against which execution is applied for be movable property is not other than a mahál, or share of a mahál, process shall be issued in the same manner as for the attachment and sale of moveable property: and the provisions of sections 168, 169 and 170 shall be applicable.

In the event of the sale of such property being Possession to be given completed, possession thereto to auction-purchaser. of shall be given to the auction-purchaser by the Collector of the district in which such property is situate.

**173.** When such property is a mahál, or a share of a mahál, the decree shall be sent for execution to the Collector of the District in which such property is situate,

and if the judgment-debtor satisfies the Collector of the District that there is reasonable ground to believe that the amount of the judgment-debt may be raised by mortgage of the property, or by letting it on lease, or by disposing by private sale of a portion of the property or any other property belonging to the judgment-debtor, the Collector of the District may, on the application of the judgment-debtor, postpone the sale for such period as the Collector of the District thinks proper to enable the judgment-debtor to raise the amount,

and if the judgment-debtor satisfies his creditor, the execution shall be stayed, and the Collector of the District shall report the fact to the Court by which the decree was made.

**174.** If the judgment-debtor obtaining a postponement of the sale fails to satisfy his creditor within the period so fixed, or, if the judgment-debtor does not apply for, or applies for but does not obtain, a postponement of the sale, and the Collector of the District considers that the sale of the mahál or share is inexpedient, and that satisfaction of the decree may be made by means of a temporary alienation of the property,

the Collector of the District shall cause an accurate rent-roll of the property to be prepared, and ascertain the annual income derivable therefrom.

If, in the opinion of the Collector of the District, such income is sufficient to pay off the judgment-debt with interest at six per cent. per annum, within any period not exceeding fifteen years from the date of the decree, he may transfer the property to the judgment-creditor, or if the judgment-creditor refuse to

Power to hold property under management. take it, to some other person, or he may hold it under his own management, for such period not exceeding fifteen years, as may be sufficient for the recovery of the debt with interest as aforesaid, and on such conditions as to the payment of such debt and interest as he deems expedient.

Orders passed under this section and section 173 shall be subject to revision by the Commissioner of the Division and the Board, but shall not be open to appeal to the civil Court.

**174A.** When the property of a judgment-debtor Proprietor to be treated which is transferred or held ed as ex-proprietary tenant under management under ant of sir-land. section 174 includes any sir- land of such debtor, he shall, until such property is restored to him, be treated as an ex-proprietary tenant of such sir-land under section 7.

**175.** If in the opinion of the Collector of the District the recovery of the debt under section 174 is impossible, or if the sale of the property appear to him advisable on other grounds, he shall report, through the Commissioner of the Division, the case for orders to the Board.

**176.** On the receipt of such report, the Board may make, or cause to be made, such further endeavours for the recovery of the debt under the provisions of section 174, as to it may seem practicable.

**177.** If it appear to the Board that the debt cannot be recovered under section 174, or if the sale of the property appear to it to be sold, in which case the sale shall be made under the rules in force for the sale of land for arrears of land-revenue, but without prejudice to the incumbrances (if any) to which such property may be subject.

**178.** If, before the day fixed for any sale of any property under this Act, a third party claimant interest in property. appear before the Collector of the District or Assistant Collector, and claim a right or interest to or in any of the property, he shall examine such party or his agent, according to the law for the time being in force relative to the examination of witnesses,

Stay of sale.

and, if he see sufficient reason for so doing, may stay the sale of such property.

**179.** The Collector of the District or Assistant Collector may adjudicate upon such claim, and make such order as he thinks fit between the claimant and the plaintiff and defendant in the original suit.

In trying such claim, the Collector of the District or Assistant Collector shall be guided by the rules contained in this Act, so far as they may be applicable.

**180.** If the claimant fail to establish his right Compensation award. to the property taken in execution, the Collector of the District or Assistant Collector may, at the time of disposing of the case, order him to pay to the judgment-creditor the costs of the proceedings on the claim, and also such sum as the Collector or Assistant Collector thinks sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

**181. (a.)** No appeal shall lie from any order passed under section 179 or section 180 by the Collector of the District.

No appeal from order under section 179 or 180. Right to sue in civil Court. passed may institute a suit in the Civil Court to establish his right at any time within one year from the date of the order:

(c.) Provided that, if the order be for the sale of the property taken in execution, and the property is moveable the suit shall not be for the recovery of such property, but shall be for compensation from the judgment-creditor by whom it was brought to sale.

## CHAPTER VIII.

### APPEAL, REHEARING AND REVIEW.

#### (A).—From Decrees in Suits.

**182.** In suits under this Act, tried and decided by a Collector of a District or an Assistant Collector of the first class, his judgment shall be final.

Judgment of Collector of District or Assistant Collector of first class when final. All decisions of the Assistant Collector of the second class in suits mentioned in section 93 shall be appealable to the Collector of the District, whose order thereon shall be final.

**184.** The petition of appeal shall be presented to the Collector of the District within thirty days from the date of the decree.

**185.** The Collector of the District may either dismiss the petition or may fix a day for hearing the appeal, and in that case he shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons.

If, on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal may be dismissed for default.

If the appellant appears and the respondent does not appear in person or by an agent, the appeal may be heard *ex parte*.

**186.** If an appeal be dismissed for default of Re-admission of ap. prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector of the District to re-admit the appeal,

and if it be proved to the satisfaction of the Collector of the District that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector of the District may re-admit the appeal.

**187.** After hearing the appeal, the Collector of the District shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits,

**188.** In suits in which the judgment of the Collector of the District or Assistant Collector is final, as provided in section 182, he may, upon the application of either party, if preferred within thirty days from the date of the decision, order the rehearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case, which the applicant had no knowledge of, or could not produce, at the time of trial.

**189.** Notwithstanding anything contained in sections 182 and 183 an appeal shall lie to the District Judge from the decision of the Collector of the District or Assistant Collector of the first class, in all suits mentioned in section 98,

in which the amount or value of the subject-matter exceeds one hundred rupees, or

in which the proprietary title to land has been determined between parties making conflicting claims thereto:

Provided that, where the amount or value of the subject-matter of the suits exceeds five thousand rupees, the appeal shall lie to the High Court.

**190.** The rules for the time being in force in Rules as to time of regard to the time within presentation, &c., to which appeals from the decisions of civil Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the District Judge or High Court under this Act.

**191.** The decisions of District Judges passed in Special appeal to High Court from District Act shall be open to special Judge. regular appeal under this appeal to the High Court, in the same manner, and subject to the same rules, as the decisions of District Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure and the Indian Limitation Act, 1877.

(B).—From Orders on Applications or relating to the Execution of Decrees.

(1) Assistant Collectors of the Second Class.

**192.** An appeal to the Collector of the District Appeal from Assistant Collector of second class. shall lie from all orders passed under this Act by an Assistant Collector of the second class.

(2) Assistant Collectors of the First Class.

**193.** An appeal to the Commissioner of the Division shall lie from all orders passed by an Assistant Collector of the first class, on certain applications.

(a) on applications under section 99, where the amount or value of the subject-matter exceeds one hundred rupees;

(b) on applications under section 100.

**194.** An appeal to the Collector of the District Appeal from other orders of Assistant Collector of first class. shall lie from all other orders passed under this Act by an Assistant Collector of the first class, except—

(a) orders on applications mentioned in section 98;

(b) orders on applications mentioned in section 99;

(c) orders passed in the course of a suit and relating to the trial thereof.

**195.** The orders of an Assistant Collector of the first class on the following applications shall be final, subject to revision by the Commissioner of the Division or the Board—

(a) applications mentioned in section 98;

(b) applications mentioned in section 99 where the amount or value of the subject-matter does not exceed one hundred rupees.

(3) Collector of the District.

**196.** An appeal to the Commissioner of the Division shall lie from orders of Collector of the District, passed by the Collector of the District,

(a) under section 99, when the amount or value of the subject-matter exceeds one hundred rupees,

(b) under section 100.

In all other cases orders under this Act passed by the Collector of the District shall be final, subject to revision by the Commissioner of the Division or the Board.

(4) Commissioner of the Division.

**197.** Save as provided by section 198, the orders of the Commissioner of the Division on appeals shall be final, subject to revision by the Board.

**198.** An appeal from the decisions of the Commissioner of Division on ap-

peals against orders passed by the Collector of the District or Assistant Collector on the applications mentioned in section 100.

in section 100 shall lie to the Board, except where the Commissioner of the Division dismisses the appeal.

In such case the provisions of section 199 shall apply.

**199.** The Board may at any time call for any

Power of Board to ease (other than a suit mentioned in section 189) which has come before any Commissioner of a Division, or any Court subordinate to him, and pass such orders thereon, consistent with this Act, as the Board thinks fit.

**200.** No appeal shall be brought to the Collector Time for appealing. of the District after the expiration of thirty days, or to the Commissioner of the Division after the expiration of sixty days, or to the Board of Revenue after ninety days, from the date of the order complained of.

**201.** Any appeal under this Act may be admitted after prescribed period. admission prescribed therefor when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order under this section admitting an appeal.

## (5) Review.

**201A.** The Board may review and may rescind, alter or confirm any order made by itself, or by a single member, on the application of one of the parties to the case, if preferred within ninety days from the passing of the order.

**201B.** In the case of any application in which the order of the Commissioner, Collector of the District or Assistant Collector is final, as provided in sections 195, 196 and 197, such Commissioner, Collector or Assistant Collector, as the case may be, may, upon the petition of either party, if presented within thirty days from the date of the decision, review his order upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of or could not produce at the time of trial.

## CHAPTER IX.

## MISCELLANEOUS.

**202.** In computing the period of limitation prescribed for any suit under this Act, the day on which the right to sue accrued shall be excluded.

In computing the period of limitation prescribed for any appeal under this Act, the day on which the judgment or order complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.

**203.** Whenever a Court is closed on the last day of any period provided in this Act for the presentation of any memorandum of appeal, or for the deposit or payment of any money in or into court, the day on which the Court re-opens shall be deemed to be such last day.

**204. (a.)** If in any suit instituted, or on any application made, under this Act, it appears to the presiding officer that any question in issue involving a

point of law is more proper for the decision of a civil Court, such officer, if a Collector of a District, or the Collector of the District on the representation of such officer, may cause a case to be stated for the opinion of the District Judge, who shall hear the case in such manner as nearly as may be as is prescribed for the hearing of cases by the High Court by section 619 of the Code of Civil Procedure.

**(b.)** If the District Judge finds that the case is insufficiently stated, he may return it to the Collector of the District for amendment.

**(c.)** Subject to any limits of value or time provided by law for cases falling under the Code of Civil Procedure, an appeal shall lie from the judgment of the District Judge to the High Court.

**(d.)** The District Judge shall return the case with the opinion of the civil Court to the Collector of the District, and the revenue Courts shall decide the suit or application in accordance with such opinion.

**(e.)** The costs attending such case shall be dealt with as costs in the suit or on the application in the revenue Court.

**205. (a.)** If in any suit instituted, or on any application presented, in a civil or Court questions as to jurisdiction, or presiding officer doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court.

**(b.)** On any such reference being made, the High Court may order the Judge or presiding officer, either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit or appeal.

**(c.)** The order of the High Court on any such reference shall be final, and shall not be questioned by the same parties in the same suit.

**206.** In all suits instituted in any civil or revenue Court, in which an appeal lies to the District Judge or High Court, an objection that the suit was instituted in the wrong Court shall not be entertained by the appellate Court, unless such objection was taken in the Court of first instance; but the appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court.

**207.** If in any such suit such objection was taken in the Court of first instance, but the appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

**208.** If in any such suit the appellate Court has not before it the materials necessary for the determination of the suit, it shall proceed under the provisions of the Code of Civil Procedure relating to appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken by the Court of first instance, it may direct its order either to the Court in which the suit was instituted, or to any other Court competent to entertain the suit,

and the objection that the order of a subordinate appellate Court has been directed to a Court which was not competent to entertain the suit shall not be taken on special appeal.

**208A.** If, in any suit or application pending before a Revenue Court exercising original, appellate or revisional jurisdiction under this Act, it appears to such Court that any question in issue is more proper for decision by a civil Court, such Revenue Court may, by order in writing, require any party to such suit or application to institute, within such time as it may appoint in this behalf, a suit in the civil Court with a view to obtaining a decision of such question; and, if he fails to comply with such requisition, shall decide such question against him.

If he institutes such suit, the Revenue Court shall dispose of the suit or application pending before it in accordance with the final decision of the civil Court of first instance or appeal (as the case may be) upon such question.

**209. In any suit brought by a co-sharer against a suit by co-sharer a lambardár for a share of the profits, the Court may award a share of profits to the plaintiff not only a share of the profits actually collected, but also a sum equal to the plaintiff's share in the profits which, through gross negligence or misconduct, the lambardár has omitted to collect.**

**210. In any application made by a tenant**  
Tenant's power to implead persons claiming through landholder. **against a landholder to re-lead persons claiming cover possession of a holding, through landholder.** the plaintiff may join as a defendant any other person in possession of the holding, who may claim title through the landholder.

In any suit instituted, or application made, by Landholder's power to implead persons claiming through tenant. a landholder to eject a tenant, the plaintiff may join as a defendant any other person in possession of the holding, who may claim title through the tenant.

Power of Local Government to make rules.

**211. The Local Government may from time to time make rules consistent with this Act—**

- (a) for the guidance of officers in determining, under sections 13, 14, 15, 17, 18 and 20, the rent payable by tenants,
- (b) for the guidance of officers assessing rent under section 30,
- (c) as to the dates on which instalments of rent shall fall due,
- (d) as to the procedure to be followed on all applications under section 95.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

The Board, with the previous sanction of the Local Government, may from time to time make rules, consistent with the provisions herein contained, for the guidance of all persons in matters connected with the enforcement of this Act.

**212. When the Local Government has made a rule fixing the date on which Instalments when to any instalment of rent shall be deemed in arrear, fall due, no such instalment shall, for the purposes of this Act, be deemed to be in arrear unless it remains unpaid after the date fixed by such rule.**

### THE FIRST SCHEDULE.

**FORM A. (See Section 51.)**

I, A. B., of , solemnly declare that I did personally [or by my agent C. D.], on the day of , tender payment to E. F. of the sum of Rs. as and for the whole amount due from me on account of rent from the month of to the month of both inclusive. I further declare that the said E. F. refused to accept the sum so tendered, and to give a receipt in full for the

same, and I declare that, to the best of my belief, the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount I owe the said E. F., and I hereby apply for leave to pay the same accordingly.

**FORM B. (See Section 52.)**

Court of the Collector of , dated the day of

To E. F. &c.

With reference to the written declaration of A. B., you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you, or to your duly authorized agent, on application.

[This is to be written on a copy of the declaration in Form A made by the person paying the money into Court.]

**FORM C. (See Section 69.)**

**FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.**

Office of Commissioner for sale of, distressed property.

A. B., Distrainer.

[Name, description and address of the owner of the property.]

WHEREAS the said A. B. has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required, either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 188 .

**FORM D. (See Section 114.)**

**FORM OF SUMMONS TO DEFENDANT.**

No. (of suit) dated

In the Court of

A. B., Plaintiff.

[Name, description and address of plaintiff.]

C. D., Defendant.

[Name, description and address of Defendant.]

WHEREAS the said A. B. has brought a claim against you in this Court for , you are hereby required to appear in person in this Court on the day of [if not specially required to appear in person, state, "in person, or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your

defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

## FORM E. (See section 119.)

## FORM OF WARRANT OF ARREST.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

C. D., Defendant.

To the Názir of the Court of the Collector of

WHEREAS the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 188 .

## FORM F. (See section 119.)

## FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.

[Name, description and address of plaintiff.]

C. D., Defendant.

[Name, description and address of defendant.]

WHEREAS the said A. B. has brought a claim against you in this Court for (here specify particulars of claim as given in the plaint) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

## FORM G. (See section 121.)

## FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

WHEREAS A. B., plaintiff, has instituted a suit in the Court of the Collector of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is pending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.

FORM H. (See section 156.)  
WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.

C. D., Defendant.

To the Názir of the Court of the Collector of WHEREAS the said C. D. was directed by a decree of this Court, under date the day of 188 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court to be dealt with according to law.

## FORM I. (See section 156.)

## WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff.

C. D., Defendant.

To the Názir of the Court of the Collector of WHEREAS C. D. was directed by a decree of this Court, under date the day of 188 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed and) [if no list is furnished, these words to be omitted] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D., on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

## THE SECOND SCHEDULE.

(See section 1.)

## TERITORIES EXEMPTED, IN THE FIRST INSTANCE, FROM THE OPERATION OF THE ACT.

- I. The province of Kumaon and Garhwál.
- II. The Tarai Parganas, comprising—Bázpúr, Káshípúr, Jaspúr, Rudarpúr, Gadarpúr, Kilpúri, Nának-Mattha, and Bilheri.
- III. The portion of the Mirzápúr District lying to the South of the Kaimor Range.
- IV. The Family Domains of the Mahárájás of Benares comprising the following parganas :—  
Bhadoli and Kera Mangror in the Mirzapur District,  
Kaswár Rájá in the Benares District.
- V. The tract of country known as Jaunsar Bawar in the Dehrá Dúl District.

D. FITZPATRICK,  
Secretary to the Government of India.

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

(Second Publication.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th March, 1881, and is hereby promulgated for general information:—

## ACT NO. XIII OF 1881.

*An Act to provide for the better government of Fort William.*

WHEREAS it is expedient to give power to make rules for the better government of Fort William in Bengal and to provide for the establishment of a Court within the said Fort for the trial of persons charged with breaches of such rules; It is hereby enacted as follows:—

**Short title.** 1. This Act may be called "The Fort William Act, 1881;"

**Commencement.** and it shall come into force on the first day of April, 1881.

But nothing herein contained shall be deemed to confer jurisdiction over any persons (other than artificers, labourers, sutlers and followers) to whom the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, 1869, is or are applicable.

2. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, define, for the purposes of this Act, the limits of Fort William in Bengal; and in this Act the expression "the Fort" means the area so defined.

3. The Commander-in-Chief in India may, from time to time, with the sanction of the Governor General in Council, make rules, to be in force within the Fort, in regard to the matters specified in the schedule hereto annexed, and other matters of a like nature, and may by such rules prescribe, as penalties for the infringement thereof, fine which may extend to fifty rupees, or imprisonment for a term which may extend to four days, or both.

When a sentence of fine is passed under any such rule, the term for which the Court directs the offender to be imprisoned in default of payment of such fine may extend to, and shall not exceed, four days.

When any rule is made under this section, a copy thereof, in English and such other languages

as the Governor General in Council may from time to time direct, shall be exhibited in such conspicuous places within the Fort as the officer commanding the Fort may from time to time direct.

4. The Governor General in Council may invest Governor General in any commissioned officer in Council may invest officer with power to try Her Majesty's Army with power to try persons charged with any infringement of the rules made under section three.

The officer so invested is hereinafter called the Fort Magistrate.

5. In all cases under this Act, the Fort Magistrate shall, except as herein otherwise provided, exercise within the Fort the powers, and, as nearly as may be, follow the procedure, conferred on, and prescribed for, a Presidency Magistrate by the Presidency Magistrates Act, 1877; and, subject to the power conferred by the High Courts Criminal Procedure Act, 1875, section 147, every finding, sentence or order of such Magistrate under this Act shall be final.

6. Any Police-officer, or any other person empowered in this behalf by the Governor General in Council, by name or as a member of a specified class, may arrest without warrant any person who in his sight commits an offence punishable under this Act.

Every person so arrested shall be taken to the police-station within the Fort, and shall be detained there until he gives to the Police-officer in charge of such station a bond, with or without sureties, as such officer may require, for a sum not exceeding one hundred rupees, to appear before the Fort Magistrate at a time to be specified in such bond; or until he can be brought before such Magistrate.

7. Nothing in this Act or in any rule made hereunder shall affect the jurisdiction of the Magistrates appointed under the Presidency Magistrates Act, 1877, or shall prevent any person from being prosecuted under any other law for any offence punishable under this Act, or from being liable to any other punishment than is provided for such offence by this Act: Provided that no person shall be punished twice for the same offence.

8. No prosecution for any offence under this Act shall be commenced after the expiration of three months next after such offence has been committed.

**9.** All penalties heretofore imposed by the Garrison Quarter Master of the Fort for offences against garrison rules and regulations shall be deemed to have been imposed in accordance with law.

### THE SCHEDULE.

(See section 3.)

- (1). Throwing dirt or rubbish of any description into the drains or roads or anywhere but in the appointed places.
- (2). Removing night-soil without a covering or at unauthorized hours.
- (3). Camp-followers, servants and others not keeping the godowns they live in clean.
- (4). Performing offices of nature in other than the appointed places.
- (5). Bathing, or washing clothes or animals, in the *cunette* or other unauthorized places.
- (6). Selling unwholesome articles of food, grain or drinks.
- (7). Adulterating food or drinks.
- (8). Making evacuations in unauthorized places.
- (9). Rash or negligent driving.
- (10). Picketting, training or breaking in animals.
- (11). Causing obstruction by vehicles on the road.
- (12). Exposing or hawking articles for sale about the roads and barracks, or within the Fort, without a Fort pass.
- (13). Beating drums or tom-toms.
- (14). Damaging lamps, posts, masonry or other Government-property in any part of the Fort.
- (15). Disorderly behaviour in the public thoroughfares.
- (16). Gambling.
- (17). Spitting pán on any of the public staircases, gateways, walls and verandahs, or defacing in any way the walls of barracks, buildings or gateways.
- (18). Throwing slops into the drains.
- (19). Washing cooking-pots at the water-taps and wasting water.
- (20). Cooking in unauthorized places.
- (21). Hanging clothes to dry on the guns or masonry-work.
- (22). Laying out clothes, accoutrements or stable-bedding after the authorized hours.
- (23). Destroying the trees, bushes or plants, or climbing trees.
- (24). Servants smoking hookahs in their masters' quarters or cook-houses, or keeping such quarters or cook-houses in an insanitary state.
- (25). Trespassing on parade-grounds, or making footpaths across the grass-plots.
- (26). Being drunk and incapable.
- (27). Fighting, quarrelling and creating a disturbance, or making unnecessary noise of any kind.
- (28). Affixing bills and papers on any walls in the Fort.
- (29). Cutting grass or interfering with the grass-contractor.
- (30). Declining to show a tin pass when called upon to do so.
- (31). Being found in the garrison without a tin pass, or being in possession of a ticket belonging to another.
- (32). Driving vehicles without lights or with insufficiently greased wheels.
- (33). Swinging or sitting on the chain-fences.
- (34). Interfering in any way with the guns, carriages or piles of shot and shell on the works, or with the packed ordnance.
- (35). Mounting the ramparts or parapets or entering the embrasures without authority.
- (36). Smuggling liquor into the Fort.
- (37). Burning stable-litter or lighting fires except in authorized places and at authorized hours.
- (38). Carrying lights except in closed lanterns, or letting off fireworks.
- (39). Removing property of any kind or description from the Fort without written authority.
- (40). Allowing animals of any sort to stray into the Fort, or to graze within the same.
- (41). Slaughtering animals or exposing carcasses or offal within the Fort.
- (42). Keeping dogs or poultry in unauthorized places.
- (43). Buying, selling or receiving any portion of a soldier's kit.
- (44). Disobedience of lawful authority in failing to attend to authorized instructions of the police or of the several sentries posted throughout the Fort.
- (45). Occupying buildings of any kind without proper allotment.

D. FITZPATRICK,  
Secretary to the Government of India.

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th March, 1881, and is hereby promulgated for general information :—

## ACT NO. XIV OF 1881.

*An Act to amend Bengal Regulation VII of 1828.*

WHEREAS it is expedient to amend Bengal Regulation VII of 1828 (for amending the Provisions of Regulation XV of 1795, and for defining the Authority of the Rajah of Benares in the Maháls therein referred to) in manner hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called "The Benares Family Domains Act, 1881": And it shall come into force on such day as the Lieutenant-Governor of the North-Western Provinces may, by notification in the official Gazette, appoint in this behalf.

2. The following portions of Bengal Regulation VII of 1828 shall be repealed, namely :—

- (a) in section 5, the words and figures "under the rules contained in Regulation XLI, 1795";
- (b) in section 14, the words "under the Regulations," in both places in which they occur;
- (c) in section 19, the words "before the Court of circuit";
- (d) in section 20, the proviso.

New section substituted for section 3 of same Regulation.

"3. The superintendence of the said maháls shall be vested in the Commissioner of the Benares Division, hereinafter called 'the Superintendent.'

"The Lieutenant-Governor of the North-Western Provinces may, from time to time, appoint a Deputy Superintendent of the said maháls, and confer upon him all or any of the powers of the Superintendent, to be exercised by him subject to the general control of the Superintendent."

3. In the same Regulation, for section 3, the following shall be substituted, namely :—

4. In the same Regulation, section 7, for the last twenty-two words, the following shall be substituted, namely :—

"The orders thus passed by the Superintendent shall be subject to appeal to, and revision by, the Board of Revenue, whose order thereon shall be final, unless altered or set aside by the said Lieutenant-Governor."

5. In the same Regulation, section 9, for the words "the Regulations at present in force within the Province of Benares" the words "the enactments for the time being in force in the North-Western Provinces" shall be substituted, and after the word "applicable" the words "and the Local Government with the concurrence of the Mahárájá may direct" shall be inserted.

Clause added to section 10 of same Regulation.

6. To section 10 of the same Regulation the following clause shall be added, namely :—

"The Mahárájá may delegate to one or more of his officers the exercise of all or any of the powers vested in him under this section in the whole or any part of the said maháls."

7. In the same Regulation, section 11, for the words and figures "Regulation XI, 1822," the words "the enactments for the time being in force in the North-Western Provinces" shall be substituted.

8. In the same Regulation, section 12, for the words "Boards of Revenue" the words "Commissioners of Divisions and the Board of Revenue" shall be substituted; and, for the words "towards the Board" the words "towards the Commissioner" shall be substituted.

9. In the same Regulation, section 13, for the words "Governor General in Council" the words "Board of Revenue" shall be substituted.

10. In the same Regulation, section 16, for the words "a Native Commissioner shall be maintained by the Rajah in each of the pergunnahs referred to in Regulation XV, 1795," the following shall be substituted, namely :—"A Native Commissioner, or two or three Native Commissioners, as the said Lieutenant-Governor may, from time to time, direct, shall be maintained by the Mahárájá."

And to the same section the following shall be added, namely :—

"The local limits of the jurisdiction of the Native Commissioners shall be determined by the Mahárájá, and may be altered by him from time to time."

**11.** In the same Regulation, section 21, for the Amendment of same words and figures "contained Regulation, section 21. in Regulation XXIII of 1814" to the end of the section, the following shall be substituted, namely :—"prescribed by the said Lieutenant-Governor under section 22 of this Regulation."

**12.** For sections 22 to 26, both inclusive, of the Sections substituted same Regulation, the following Sections substituted for sections 22 to 26 of same Regulation, the following sections shall be substituted, that is to say :—

**12.** The said Lieutenant-Governor may, from time to time, make rules consistent with this Regulation—

"(a) to regulate the procedure and powers of the Native Commissioners, and to determine the cases in which, the mode in which, and the authority to or by which, the orders and decisions of such Commissioners shall be subject to appeal or revision, and

"(b) to regulate, in matters not hereinbefore provided for, the administration of the Family Domains in so far as it is entrusted to the Mahárájá;

"such rules shall, when published in the local Gazette, have the force of law :

Provided that no such rule shall be so published until the opinion of the Mahárájá thereon has been taken and considered by the Lieutenant-Governor.

"In matters not otherwise provided for by the rules made under clause (a), the Code of Civil Procedure shall apply.

**13.** If, in any suit instituted or appeal presented under this Regulation sent to Judge's in any Court, the Judge or presiding officer doubts whether he has jurisdiction, he may refer the matter to the Board of Revenue; and, on any such reference being made, the said Board may order the Judge or presiding officer either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit or appeal.

"The order of the said Board on any such reference shall be final.

**14.** Except as provided by or under this Regulation, or any other enactment for the time being in force,

"(a) the administration of the Family Domains, in so far as it is entrusted to the Mahárájá, shall be regulated by the principles and spirit of the enactments for the time being in force in the North-Western Provinces, and

"(b) the administration of the said Domains, in so far as it has not been so entrusted, shall be regulated by those enactments.

**25.** In this Regulation, unless there is some Interpretation-clause. thing repugnant in the subject or context,—

"'Board of Revenue' means the Board of Revenue of the North-Western Provinces, or such officer or officers as may hereafter be lawfully appointed to exercise, within the Province of Benares, the powers of such Board.

"'Regulations' includes Acts for the time being in force in the North-Western Provinces."

**13.** All orders heretofore passed by the Governor Validation of past or General in Council, or the ders, &c. Lieutenant-Governor of the North-Western Provinces, or any other authority, regarding revisions of settlement or other matters connected with the revenue-administration of the tracts of territory mentioned in the preamble to Bengal Regulation VII of 1828, shall be deemed to have been passed in accordance with law; and no order or decision purporting to have been passed by any civil or revenue authority under the provisions of that Regulation shall be called in question in any Court.

**14.** In the Scheduled Districts Act, 1874, first Parts of Acts XIV and schedule, Part IV, and in XV of 1874 repealed. the Laws Local Extent Act, 1874, sixth schedule, Part IV, the following shall be repealed, that is to say :—

"V. The Family Domains of the Mahárájá of Benares comprising the following parganas :—

"Bhadohi and Kheyra Mángror in the Mirzapur District.

"Kaswá Rájá in the Benares District."

**15.** In the Laws Local Extent Act, 1874, section 8, after clause (j), the Clause added to Act XV of 1874, s. 8. following shall be inserted, namely :—

"(jj) extend to Pargana Bhadohi or Pargana Kera Mangror in the Mirzapur District, or to Pargana Kaswá Rájá in the Benares District, any law not now in force therein."

D. FITZPATRICK,  
Secretary to the Government of India.

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

(First Publication.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 15th March, 1881, and is hereby promulgated for general information :—

## ACT NO. XV OF 1881.

## THE FACTORIES ACT, 1881.

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*An Act to regulate labour in Factories.*

WHEREAS it is expedient to regulate labour in factories; It is hereby enacted as follows :—

## Preliminary.

1. This Act may be called "The Indian Factories Act, 1881."

It applies to the whole of British India, and shall come into force on the first day of July, 1881.

## Interpretation-clause.

"factory" means any premises (other than "factory") situated on, and used solely for the purposes of, a tea or coffee plantation) wherein is carried on, for not less than four months in the whole in any one year, any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale, any article or part of an article; and

(a) wherein steam, water or other mechanical power is used in aid of any such process; and

(b) wherein not less than one hundred persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process; and

every part of a factory shall be deemed to be a factory, except any part used exclusively as a dwelling :

"child." "child" means a person under the age of twelve years :

"mill-gearing" includes every shaft, whether "mill-gearing :" upright, oblique or horizontal, and every wheel, drum, pulley, rope, driving strap or band, by which the motion of the first moving power is communicated to any machine :

a child who works in a factory, whether for "employed." wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein, shall be deemed to be employed therein within the meaning of this Act.

*Inspectors and certifying Surgeons.*

**3. The Local Government may in its discretion, by notification in the official Gazette, appoint such persons as it thinks fit to be**

**Inspectors of factories within such local limits as it may assign to such Inspectors, and may suspend or dismiss any person so appointed.**

In default of such appointment, the Magistrate of the district shall, in virtue of his office, be Inspector of all factories (if any) in the District.

Such Inspectors shall be deemed public servants within the meaning of the Indian Penal Code; and shall be officially subordinate to such authority as the Local Government may, from time to time, indicate in this behalf.

**4. An Inspector of factories may, within the local limits for which he is appointed,**

(a) enter, with such assistants (if any) as he thinks fit, any factory whenever he has reason to believe that any person is employed therein;

(b) make such examination of the premises and machinery, and of the registers hereinafter prescribed, and take on the spot or otherwise such evidence of any person as such Inspector may deem necessary for carrying out the provisions of this Act;

(c) order that any person shall not be employed in a factory when he has reason to believe that such employment would be in contravention of this Act—

until the age of such person has been certified, in the manner hereinafter provided, to be above seven years; or.

for more than the time allowed by this Act for the employment of children, until his age has been so certified to be above twelve years.

**5. The Civil Surgeon or such other person practising medicine or surgery as the Local Government may, from time to time, appoint in this behalf for any local area (hereinafter called the certifying surgeon) shall, at the request of any**

person employed or desirous of being employed in a factory situate in such local area, or of the parent or guardian of such person, examine such person and grant him a certificate, stating whether his age, as nearly as it can be ascertained from such examination, is above or below seven years, or twelve years, as the case may be.

*Children.*

**Age of employment.** No child shall be employed in any factory, if he is under the age of seven years.

**Hours of employment for children.** No child shall be actually employed in any factory more than nine hours in any one day.

And no child shall be employed in any factory on any day without an interval, or intervals, amounting in the whole to at least an hour, being allowed to him for food and rest.

The times at which such intervals shall be allowed, and the length of each interval, shall be fixed by the Local Government for each factory,

after ascertaining, as far as possible, the existing practice in such factory and the wishes of the occupier thereof.

The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice, in English and the languages of the District in which the factory is situate, showing the times at which such intervals shall be allowed and the length of each interval.

A child shall not be deemed to be employed within the meaning of the first clause of this section during any interval allowed for food or rest.

**8. Every occupier of a factory in which children are employed shall, before the beginning of each month, fix not less than four days in**

**such month on which no child shall be employed in such factory, and shall forthwith give notice of the days so fixed to such officer as the Local Government may, from time to time, appoint in this behalf.**

An occupier of a factory may, with the previous sanction of the Inspector, substitute, for any day fixed under this section, another day in the same month.

No child shall be employed in such factory on a day fixed under this section, unless when another day has been substituted for such day as hereinbefore provided, in which event no child shall be employed in such factory on the day so substituted.

**9. No occupier of a factory shall employ therein**

**Not to be employed on any day any child who in two factories on same day has to his knowledge already been employed on the same day in any other factory.**

**10. No occupier of a factory shall allow any child to clean any part of the**

**\* Not to be engaged in mill-gearing or machinery of such factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel or other mechanical power, as the case may be.**

**11. The Local Government may direct any occ-**

**Register of children upier of a factory to keep, in such form and with such particulars as such Govern- ment may, from time to time, prescribe, registers of the children (if any) employed in such factory, and of their respective employments.**

*Fencing.*

**12 (a). Every fly-wheel directly connected with a steam-engine, or water-wheel or other mechanical power in any part of a factory, and every part of a steam-engine or water-wheel,**

**(b) every hoist or teagle near which any person is liable to pass or be employed, and**

**(c) every other part of the machinery or mill-gearing of a factory which may, in the opinion of the local Inspector, be dangerous if left unfenced, and which he may have ordered to be fenced,**

**shall, while the same is in motion, be kept by the occupier of such factory securely fenced.**

Any order under clause (c) may be set aside, on appeal or otherwise, by the Local Government or such authority as it may appoint in this behalf.

*Notices.*

**13. When any accident occurs in a factory causing death or bodily injury whereby the person injured is prevented from returning to his work in the factory during forty-eight hours after the occurrence of the accident,**

Notice to be given of accidents.  
is prevented from returning to his work in the factory during forty-eight hours after the occurrence of the accident, the occupier of such factory, or, in his absence, his principal agent in the management of such factory, shall send such notice of such accident to such authorities in such form and within such time as the Local Government may, from time to time, by rule, direct.

**14. Every person shall, within one month after he begins to occupy a factory,**

Person beginning to occupy factory to give notice containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work performed in such factory, the nature and amount of the moving power therein, and the name of the person (if any) under whom the business of the factory is to be carried on.

*Penalties.*

**15. Any person who, in breach of this Act, or of any order or rule made hereunder—**

- (a) employs any child in any factory;
- (b) neglects to set up or maintain the notice required by section seven or to fix the days referred to in section eight;
- (c) allows any child to perform the work forbidden by, or to work in contravention of, section ten;
- (d) neglects to keep a register in manner prescribed under section eleven;
- (e) neglects to fence any machinery or mill-gearing in any factory; or
- (f) neglects to give any notice,

shall be punished with fine which may extend to two hundred rupees:

Provided that—

*1st*, no prosecution under this section shall be instituted except by, or with the previous sanction of, the local Inspector; and

*2nd*, no person shall be liable under this section to more than one penalty for any one description of offence committed on the same day, except where two or more child-

ren are employed contrary to the provisions of this Act, in which case one penalty may be imposed in respect of each child so employed.

**16. Where an act or omission would, if a person were under seven or twelve years of age, be an offence punishable under this Act, and such person is, in the opinion of the Court, apparently under such age, it shall lie on the accused to prove that such person is not under such age.**

A declaration in writing by a certifying Surgeon that he has personally examined a person employed in a factory, and believes him to be under or over the age set forth in such declaration, shall, for the purposes of this Act, be admissible as evidence of the age of that person.

**17. Every occupier of a factory shall be deemed primarily liable for any breach therein of the provisions of this Act; but he may discharge himself from such liability by proof to the satisfaction of the local Inspector, before prosecution therefor, that such breach was committed by some other person without his knowledge or consent; and the person committing such breach shall be liable therefor.**

*Miscellaneous.*

**18. The Local Government may, from time to time, make rules consistent with this Act to provide for—**

- (a) the fencing of machinery and mill-gearing in factories;
- (b) the inspection of factories;
- (c) the manner in which appeals under this Act shall be presented and heard; and
- (d) otherwise carrying out the provisions of this Act.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

**19. This Act shall apply to factories belonging to the Crown; provided that, in case of any public emergency, the Governor General in Council or the Local Government may, by an order in writing, exempt any such factory from this Act to such extent and during such period as the Governor General in Council or the Local Government, as the case may be, thinks fit.**

D. FITZPATRICK,  
*Secretary to the Government of India.*

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 15th March, 1881, and is hereby promulgated for general information:—

## Act No. XVI of 1881.

*An Act to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.*

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways leading to ports in British India, and to prevent the creation of such obstructions; It is hereby enacted as follows:—

1. This Act may be called "The Obstructions in Fairways Act, 1881;" and it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty or by the Secretary of State for India in Council.

2. Whenever, in any fairway leading to any port in British India, any vessel is sunk, stranded or abandoned or any fishing-stake, timber or other thing is placed or left, the Local Government of the part of British India in which such port is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

(a) cause such thing or any part thereof to be removed; or,

(b) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, cause the same or any part thereof to be destroyed.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Any dispute arising concerning the amount due Dispute concerning of anything so removed, shall be decided by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties; and such decision shall be final.

4. The Local Government shall, whenever any notice of removal to thing is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was so removed.

Things removed may, in certain cases, be sold. If after publishing such notification, such thing is unclaimed, or

if the person claiming the same fails to pay the amount due for the said expenses and any customs duties or other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

6. On realizing the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes the claim within one year from the date of the sale.

7. For the purposes of this Act, the term "vessel" shall be deemed to include also every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

8. The Governor General in Council may from time to time, by notification in the Gazette of India, make rules to regulate or prohibit the placing of obstructions in fairways.

Power to make rules to regulate or prohibit in any fairway leading to a port in British India, the placing of fishing-stakes, the casting or

throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause, or be likely to cause, obstruction or danger to navigation.

**9. Whoever is guilty of any act or omission**

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in any district or Presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**10. Whenever the maintenance or creation of**

Compensation payable in certain cases for damage caused under this Act. an obstruction in any fairway has become lawful by long usage or otherwise, and such obstruction is removed or

destroyed under section two, or its creation is regulated or prohibited under section eight, any person having a right to maintain or create such obstruction shall be entitled to receive from the Secretary of State for India in Council reasonable compensation for any damage caused to him by such removal, destruction, regulation or prohibition.

Every dispute arising concerning the right to such compensation, or the amount thereof,

shall be determined according to the law for the time being in force relating to like disputes in the case of land needed for public purposes and not otherwise; and for the purposes of such law the fairway from or in which such obstruction was removed or destroyed, or in which its creation was regulated or prohibited, shall be deemed to be a part of the Presidency-town or district in which the port to which such fairway leads is situate.

**11. Whenever any obstruction in a fairway**

Certain action of the Government previous to passing of this Act to be deemed to have been taken hereunder. leading to a port in British India has been removed or destroyed, or whenever the creation of any such obstruction has been regulated or

prohibited, by an order of the Governor General in Council or a Local Government, previous to the passing of this Act, such removal, destruction, regulation or prohibition shall be deemed to have been effected under this Act.

**12. Nothing herein contained shall be deemed**

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D. FITZPATRICK,  
*Secretary to the Government of India.*



# The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 26, 1881.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th March 1881, and is hereby promulgated for general information:—

#### ACT NO. XII OF 1881.

#### THE NORTH-WESTERN PROVINCES RENT ACT, 1881.

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**FIRST SCHEDULE.—FORMS.****SECOND SCHEDULE.—TERRITORIES EXEMPTED, IN THE FIRST INSTANCE, FROM THE OPERATION OF THE ACT.***An Act to amend the Law relating to the recovery of Rent in the North-Western Provinces.*

WHEREAS it is expedient to amend the law relating to the recovery of

Preamble. Rent in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

**CHAPTER I.****PRELIMINARY.****Short title.**

1. This Act may be called “The North-Western Provinces Rent Act, 1881.”

It extends in the first instance to the territories Local extent. for the time being under the government of the Lieutenant-Governor of the North-Western Provinces, except those specified in the second schedule hereto annexed. But the Local Government may, by notification in the official Gazette, extend the whole or any part of this Act to all or any of the territories so excepted, and when any part of the North-Western Provinces Rent Act, 1873, has been extended to any such territory, such part shall be repealed therein and the corresponding part of this Act shall extend thereto.

Save as provided by sections 171 and 172, nothing herein contained applies to land for the time being occupied by dwelling-houses or manufactories, or appurtenant thereto, so long as such land is not let to agricultural tenants.

**Commencement.** This Act shall come into force on the first day of April, 1881.

**2. The North-Western Provinces Rent Act, 1873, is hereby repealed.** Act No. XVIII of 1873 repealed. But such repeal shall not legalize any practice which, immediately before the passing of that Act, was unlawful.

All rules and appointments made, notifications Rules, &c., under re- and proclamations issued, authorities and powers con-ferred, leases granted, rents fixed, rights acquired, liabilities incurred and places appointed under that Act shall, so far as may be, be deemed to have been made, issued, con-ferred, granted, fixed, acquired, incurred and appointed hereunder.

**Illustration (a) to the Indian Penal Code, section 19, and Act No. XI of 1865, section 52, shall be read as if, for “Act X of 1859,” the words and figures, “the North-Western Provinces Rent Act, 1881,” were substituted. And in all Acts passed after the said North-Western Provinces Rent Act, 1873, all references to that Act shall be read as if made to this Act.**

**3. In this Act, unless there be something re-pugnant in the subject or context—**

**‘Mahál’:**

(1.) ‘Mahál’ means—

(a) any local area held under a separate en-gagement for the payment of land-revenue, and for which a separate record-of-rights has been framed;

(b) any local area of which the revenue has been assigned or redeemed, and for which a separate record-of-rights has been framed;

(1A.) ‘Tenant’ includes a ‘Tenant:’ thékadár and a katkanadár:

(2.) ‘Rent’ means whatever is to be paid, deli-vered or rendered by a ten-ant on account of his hold-ing, use or occupation of land:

(3.) ‘Landholder’ means the person to whom a tenant is liable to pay rent:

'Sir-land.'

(1.) 'Sir-land' means—

- (a) land recorded as sir at the last settlement or revision of settlement of the district in which it is situate, and continuously so recorded since;
- (b) land continuously cultivated for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour;
- (c) land recognized by village-custom as the special holding of a co-sharer, or treated as such in the distribution of profits or charges among the co-sharers;

(2.) 'Collector of a District' means the chief officer in charge of the Revenue Administration of a District:

(3.) 'Commissioner of a Division' means the chief officer in charge of the Revenue Administration of a Division:

(4.) 'Board' means the Board of Revenue for the North-Western Provinces:

(5.) 'Civil Jail' means the civil jail of the District, and includes any place appointed by the Local Government for the confinement of prisoners under sentence of any Court constituted under this Act.

## CHAPTER II.

### RIGHTS AND LIABILITIES OF LANDHOLDERS AND TENANTS.

#### 4. When any permanent and transferable interest in land in a district

Intermediate holders of land at rates unchanged since permanent-settlement. or a portion of a district which has been permanently settled has been held otherwise than under a terminable lease by any person intermediate between the proprietor of the mahál and the occupants, and by the predecessors in interest of such person, from the time of the permanent-settlement, at the same rate of rent, such person shall have a right to hold such interest at that rate.

#### 5. When any land in a district or portion of a

Tenants at fixed rates. district which is permanently settled has been held by a tenant and his predecessors in interest, from the time of the permanent settlement, at the same rate of rent, such tenant shall have a right of occupancy at that rate.

A tenant having such right is hereinafter called a "tenant at a fixed rate."

6. When, in any suit to which the provisions Presumption when 20 of section 4 or section 5 years' holding at fixed apply, it is proved that rate is proved.

the land has for a period of twenty years next before the institution of the suit been held by the present holder and his predecessors in interest at the same rate of rent, it shall be presumed, until the contrary is proved, that it has been held at such rate from the time of the permanent settlement.

7. Every person who may hereafter lose or part with his proprietary rights Ex-proprietary tenants. in any mahál shall have a right of occupancy in the land held by him as sir in such mahál at the date of such loss or parting, at a rent which shall be four annas in the rupee less than the prevailing rate payable by tenants-at-will for land of similar quality and with similar advantages.

Persons having such rights of occupancy shall be called "ex-proprietary tenants," and shall have all the rights of occupancy-tenants.

If there are two or more sharers in any sir-land and one of them becomes an ex-proprietary tenant, the share which previously belonged to such ex-proprietary tenant shall, on his application or on the application of the person entitled to receive the rent, be divided off by the Collector, and the rights of the ex-proprietary tenant shall be limited to the land comprised in such share.

8. Every tenant who has actually occupied or cultivated land continuously Occupancy-tenants. for twelve years has a right of occupancy in the land so occupied or cultivated by him.

Such tenants shall be called "occupancy-tenants."

The occupation or cultivating of the father or other person from whom the tenant inherits, shall be deemed to be the occupation or cultivating of the tenant within the meaning of this section:

Tenants barred from right of occupancy. Provided that no tenant shall acquire, under this section, a right of occupancy—

(a) in land which he holds from an occupancy-tenant, or from an ex-proprietary tenant, or from a tenant at fixed rates;

(b) in sir-land;

(c) in land held by him in lieu of wages.

Provided also that, when a tenant actually

Time excluded from reckoning period necessary for acquiring right of occupancy. occupies or cultivates land under a written lease, without having a right of occupancy in such land, the period of twelve years necessary for acquiring a right of occupancy therein by him or any one claiming under him shall begin on the expiration of the term of such lease. If during the currency of such lease he ceases to occupy the land comprised therein, and sublets it to another, no right of occupancy in such land shall be acquired by the sub-lessee during the currency of the lease.

Rights under sections 7 and 8 when transferable.

9. The right of tenants at fixed rates may devolve by succession or be transferred.

No other right of occupancy shall be transferable in execution of a decree or otherwise than by voluntary transfer between persons in favour of whom as co-sharers such right originally arose or who have become by succession co-sharers therein.

When any person entitled to such last-mentioned right dies, the right shall devolve as if it were land: Provided that no collateral relative of the deceased who did not then share in the cultivation of his holding shall be entitled to inherit under this clause.

**10.** On the application of any tenant to have Determination of class his class of tenure determined, the Collector of the District or Assistant Collector shall determine the class to which he belongs, namely—

whether he is a tenant at fixed rates, or an ex-proprietary tenant, or an occupancy-tenant, or whether he is a tenant without a right of occupancy.

Bar to enhancement of rent of tenants at fixed rates. **11.** The rent paid by tenants at fixed rates shall not be liable to enhancement, except as provided by section 18.

Enhancement in case of ex-proprietary and occupancy-tenants. **12.** The rent paid by ex-proprietary or occupancy-tenants shall not be liable to enhancement except—

(a) by a written agreement registered under the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or recorded before the kánuño : or

(b) by order of a Settlement-officer passed under the law for the time being in force : or

(c) by order under this Act.

**13 (a).** Where the rent of any occupancy-tenant Grounds of enhancing has not been fixed by order of rent of occupancy-tenants a Settlement-officer under the which has not been fixed North-Western Provinces by order. Land Revenue Act, 1873, or by an order under this Act,

(b) or where the rent has been fixed by any such order, but the term for which it has been fixed has expired,

(c) or where ten years from the date on which an order fixing the rent has taken effect have expired,

(d) or where by order of the Local Government the assessment of the district has been revised before confirmation,

(e) or where the period of settlement of the district has come to an end,

the landholder may apply to enhance the rent of such tenant on one of the following grounds and on no others:—

(f) that the rate of the rent paid by such tenant is below the prevailing rate payable by the same class of tenants for land of similar quality with similar advantages;

(g) that the value of the produce has, or the productive powers of the land have, been increased otherwise than by the agency or at the expense of the tenant;

(h) that the quantity of land held by the tenant has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

**14 (a).** Where the rent of any ex-proprietary tenant has not been fixed by order of ex-proprietary tenants which has not been fixed by order. **14 (b).** Where the rent of any ex-proprietary tenant has not been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section 18, clauses (c), (d) and (e) has occurred,

the landholder may apply to enhance or determine the rent of such tenant as if he were an occupancy-tenant: Provided that his rent shall be four annas in the rupee below the prevailing rate for land of a similar quality with similar advantages held by tenants-at-will.

**(b).** Whenever the district or tahsil, or other local Selection of land for comparison. area in which such land is situated, has been divided by the Settlement-officer into circles of like capacity and soil, the land of similar quality, with similar advantages, shall, for the purposes of this section and section 18, be selected from the same circle.

**(c).** When the Settlement-officer has not so divided the district or other local area as aforesaid, the land regarding which the application has been made shall be compared with land of similar quality and with similar advantages, in the same tahsil or in a tahsil immediately adjacent.

**15.** Where the rent of any ex-proprietary tenant Abatement in like cases. or occupancy-tenant has not been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section 18, clauses (c), (d) and (e) has occurred,

the tenant may apply for an abatement of his rent on one of the following grounds, and on no others:—

(a) that the area of the land held by him has been diminished by diluvion or otherwise:

(b) that the value of the produce has, or the productive powers of such land have, been decreased by any cause beyond his power.

**16.** Where the rent of any ex-proprietary or occupancy-tenant has been fixed by an order under this Act, such rent shall not be liable to be enhanced or abated until the occurrence of any of the events mentioned in section 18, clauses (c), (d) and (e), whichever first occurs.

**17.** Notwithstanding anything contained in section 16 where the rent of any ex-proprietary or occupancy-tenant has been fixed by order of a Settlement-officer or under this Act.

Grounds of enhancement and abatement where his rent has been fixed by order of a Settlement-officer or under this Act. **17 (a).** Where the rent of any ex-proprietary or occupancy-tenant has been fixed by order of a Settlement-officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act, the landholder may apply to enhance the rent of such tenant during the currency of the term for which the rent has been so fixed, on one of the following grounds, and on no others:—

(a) that the area of the tenants holding has been increased by alluvion or otherwise:

(b) that the productive powers of the land held by the tenant have, since the date of the order, been increased otherwise than by the agency or at the expense of the tenant:

And the tenant may apply for abatement of his rent on one of the following grounds, and on no others :—

(c) that the area of the land held by him has been diminished by diluvion or otherwise;

(d) that the productive powers of such land have been decreased by any cause beyond his control.

**18. In the case of a tenant at fixed rates,** the grounds of enhancement or abatement of rent of tenant at fixed rates. landholder may apply to enhance his rent on the ground that the area of the land in his holding has been increased by alluvion or otherwise,

and the tenant may apply for abatement of his rent on the ground that the area of the land in his holding has been diminished by diluvion or otherwise.

**19. Applications for enhancement or abatement**

Day before which applications for enhancement or abatement must be made. of rent must be made on or before the thirty-first day of August next before the year commencing on the first day

of July from which the rent is to be enhanced or abated,

and every order for enhancement or abatement Orders when to take effect. shall take effect from the first day of July next following the date of such order, unless for some reason, to be stated in writing, the Court thinks fit to order otherwise.

**20. In determining, under this Chapter, the rate**

Consideration of caste and class of tenant in determining rate of his rent. of rent payable by any tenant, his caste shall not be taken into consideration, unless it is proved that, by local custom, caste is taken into account in determining such rate;

and whenever it is found that, by local custom or practice, any class of persons, by reason of their having formerly been proprietors of the soil or otherwise, hold land at favourable rates of rent, the rate shall be determined in accordance with such custom or practice.

**21. No tenant-at-will of land shall be liable to pay rent in excess of the**

Tenants-at-will. rent (if any) payable by him in the previous year ending on the thirtieth day of June, unless the landholder and tenant have agreed as to the rent to be paid to the former by the latter, and such agreement has been recorded by the kánuño of the pargana in which such land is situate.

**22. Notwithstanding anything hereinbefore**

Rent of ex-proprietary or occupancy-tenant fixed by agreement. contained, when the rent of any ex-proprietory or occupancy-tenant has been fixed by agreement between the parties, such rent shall not be liable to enhancement or abatement for such term as may be agreed on.

**22A. When any land is held of a landholder**

Applications to survey land. by a tenant, such landholder or tenant may, in the absence of a written contract to the contrary, apply to the Collector of the District to have such land surveyed. The Collector, on receiving such application, may estimate the cost of such survey, and, by order in writing, require the applicant to deposit the amount of such estimate.

If the applicant deposits such amount within fifteen days from the date of the order, the Collector of the District shall issue a notice to the other party or parties to the tenancy to show cause, at a time and place specified in such notice, why the survey should not be made; and, if no such cause is so shewn, may, by an order in writing, direct the survey to be made by such person and at such time as he thinks fit.

A copy of such order shall be served on all the parties to the tenancy; and, if any party fails to attend at the appointed time, it shall not thereafter be open to him to question the correctness of the survey made in his absence.

If any party, on being called upon to show cause as aforesaid, makes any objection to the survey and such objection is overruled, he shall be liable to pay the costs (if any) occasioned by such objection.

Nothing in this section shall affect any power conferred by law to compel the attendance of any person at a survey.

**23. Whenever for any cause the Local Govern-**

Power to remit or suspend payment of rent when payment of revenue remitted or suspended. ment remits or suspends for any period the payment of the whole or any part of the revenue payable in respect of any land, any officer em-

powered by the Local Government in this behalf may, subject to such rules as to appeal, confirmation or otherwise as may, from time to time, be prescribed by the Board, order that the rent of such land shall be remitted, or suspended for the period of such suspension of payment of revenue, as the case may be, to an amount which shall be equal to double the amount of the revenue of which the payment has been so remitted or suspended, or shall bear the same proportion to the whole of the rent payable in respect of the land as the revenue of which the payment has been so remitted or suspended bears to the whole of the revenue payable in respect of such land;

and, subject to the same rules, the landholder shall be bound by such order.

#### (J).—Leases.

**24. Every tenant is entitled to receive from the**

Contents of lease to landholder, and may at any time during the continuance of his holding, apply for a lease containing the following particulars :—

- (a) the quantity of land held by him, and, where the fields have been numbered in a Government survey, the number of each field;
- (b) the amount of annual rent payable for such land;
- (c) the instalments in which, and the dates on which, such rent is to be paid;
- (d) any special conditions of the lease;
- (e) if the rent is payable in kind, or is calculated on a valuation of the produce, the proportion of produce to be delivered, the mode of valuation, and the time, manner and place of delivery.

Leases to which tenants at fixed rates are entitled. **25. Tenants at fixed rates at fixed rates are entitled to receive leases at such rates.**

**26. Ex-proprietary and occupancy-tenants are entitled to receive leases at the rates determined in accordance with the law for the time being in force, or,**

*Leases to which ex-proprietary and occupancy-tenants are entitled.* where no rates have been so determined, at the rates actually paid by them when they demand such leases.

**27. All other tenants are entitled to leases only**

*Leases to which other tenants are entitled.* on such terms as may be agreed upon between them and the landholders.

**28. Every landholder who grants a lease is entitled to receive a reciprocal engagement from the tenant, executed by the tenant, and conformable with the terms of the lease.**

The tender to any tenant of a lease, such as he is entitled to receive, shall entitle the landholder to receive a reciprocal engagement from such tenant.

**29. Notwithstanding anything contained in section 22, when any lease is**

*Lease for period exceeding term of landholder's engagement.* granted, or any agreement is entered into, by any landholder under engagement with Government for his land, fixing the rent of land for any period exceeding the term of such engagement, and such term expires, such lease or agreement shall,

(a) when, on the expiration of such term, the revenue payable in respect of such land is enhanced—be voidable at the option of the landlord, unless the tenant agrees to pay such rent as a Settlement-officer or other person duly empowered in this behalf may, on the application of the landlord, determine to be fair and reasonable; and

(b) when such land-revenue is on the expiration of such term reduced—be voidable at the option of the tenant, unless the landlord agrees to accept such rent as a Settlement-officer or other person duly empowered in this behalf may, on the application of the tenant, determine to be fair and reasonable.

**30. (a) And whereas all grants (whether in writing or otherwise) for holding land exempt from the payment of rent which have been made since the first day of December, 1790, by any authority other than that of the Governor General in Council, were declared by Bengal Regulation XIX of 1793, section 10, to be null and void, and like provisions have been by divers Regulations applied to the several parts of the territories to which this Act extends, and the said Regulation XIX of 1793 also provided that no length of possession should be considered to give validity to any such grant, either with regard to the property in the soil or the rents of it, it is hereby further enacted as follows:—**

(b) Applications by the proprietor to resume such grants or to assess rent on the land, shall be made to the Collector of the District or Assistant Collector, and, subject to rules to be made by the Local Government, shall be dealt with as other applications under this Act.

(c) Grants of land held under a written instrument, by which the grantor expressly agrees that the grant shall not be resumed, shall be held valid as against him (but not as against his representatives after

his death) during the continuance of the settlement of the district in which the land is situate, which is current at the date of the grant.

(d) Where any land, having been for the fifty years

*When rent-free tenure confers proprietary right.* next before the twenty-second day of December, 1873, held rent-free and by at least

two successors to the original grantee, was so held on that day, such holding shall be deemed to have conferred on the holder a proprietary right.

(e) Nothing in the Indian Limitation Act, 1877, shall bar the right to make an application under this Act to assess to rent land held rent-free.

(f) Nothing in this section shall apply to either of the following cases:—

(1) Where land was, previously to the passing of the North-Western Provinces Rent Act, 1873, held rent-free under a judicial decision:

(2) Where, previously to the passing of that Act, land held rent-free had been purchased for a valuable consideration and resumption thereof had been barred under Act No. X of 1859, section 28, or under the Indian Limitation Act, 1871, schedule II, No. 130.

**(B).—Relinquishment and Ejectment.****31. Every tenant not holding under a lease**

*Relinquishment of land by tenant not holding under a lease.* shall continue liable for the rent of the land in his holding for the ensuing year, unless on or before the first day of May in any year he gives notice in writing to the landholder, or his recognized agent, of his desire to relinquish such land on the thirtieth day of June next ensuing, and relinquishes it accordingly; or unless it is let to any other person by such landholder or agent:

Provided that, whenever an order for the enhancement of the rent of

*Proviso.* any land held by any such

tenant is passed and the tenant, within fifteen days of the date of such order gives to the landholder or his recognized agent notice in writing of his desire to relinquish such land at the commencement of the period in respect of which such enhancement takes effect, and relinquishes such land accordingly, he shall not be liable for the rent payable for such land in respect of any period subsequent to such relinquishment.

*Explanation.*—No notice can be given under this section in respect of a portion only of any land held under the same lease or engagement.

**32. If the landholder or his agent refuses to re-**

*Service through tahsildar.* ceive any notice under section 31, or if he receives it, quishment.

but refuses to sign and deliver a receipt for the same, the tenant may, before the expiration of the period limited for giving such notice, make an application to the tahsildar, who shall thereupon cause the notice to be served on such landholder or agent, the tenant paying the costs of service.

**33. The notice shall, if practicable, be served**

*Mode of serving notice.* personally on the landholder or his agent; but if the landholder or his agent cannot be found, or if he evades service of the notice, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the

land is situate, at the *chaupál*, or other conspicuous place in the village where the land is situate.

Where the delay in serving the notice is owing to the fault of the landholder or his agent, the notice shall be deemed to have been served at the first attempt to serve it.

**33A. When any such notice has been received**

*Application by landholder to set aside notice.* by or served on a landholder or his agent he may, within fifteen days from such receipt or service, apply to the Collector or Assistant Collector to have such notice declared invalid, and the Collector shall thereupon determine the question between the parties.

If the landholder or his agent does not so apply within such period of fifteen days, he shall be deemed to have accepted the notice.

**34. (a). When an arrear of rent remains due**

*Liability of tenant to pay interest on arrear and to be ejected.* from any tenant, he shall be liable to pay interest on such arrear at one per cent. per monsem; and if the arrear remains due on the thirtieth day of June, to be ejected from the land in respect of which the arrear is due.

(b). No tenant shall be ejected otherwise than *Bar to ejection without decree.* in execution of a decree or order under the provisions of this Act.

(c). No ejection of a tenant or forfeiture of a lease shall be decreed on account of any act or omission of the tenant—

(1) which is not detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let, or

(2) which by law, custom, or special agreement does not involve the forfeiture of the lease.

*Explanation.—* In clauses (a) and (b) the word 'tenant' does not include a *thekadár* and a *katkā-nadar*.

**35. If the landholder desires to eject a tenant**

*Ejection of tenant at fixed rates, ex-proprietor, with right of occupancy, or holding under unexpired lease.* at fixed rates, an ex-proprietary tenant, an occupancy-tenant or a tenant holding under an unexpired lease, against whom a decree for

arrears has been passed and remains unsatisfied, he may, after the expiration of the year, ending on the thirtieth day of June, in which such arrears accrued, apply to the Collector of the District or Assistant Collector to eject the tenant.

Such officer shall, on receiving such application, cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that if he does not pay such amount into Court within fifteen days from receipt of the notice, he will be ejected from his land.

If such amount be not so paid, the Collector of the District or Assistant Collector may eject the tenant.

**36. If the landholder desires to eject a tenant**

*Service of notice on tenant not having a right of occupancy for limited period.* not having a right of occupancy, or any other tenant holding only for a limited period, after the determination of his tenancy, he shall cause a written notice of ejection to be served on such tenant under the provisions of this Act.

**37. The notice of ejection shall be written in the vernacular language and character of the district:**

it shall specify the land from which the tenant is to be ejected;

and it shall inform him that he must vacate such land; or that, if he means to contest the right to eject him, he must apply to the Collector of the District or Assistant Collector for that purpose.

**38. The notice shall be issued and served through the office of the**

*Mode of serving notice.* tahsildár on application made to him between the first day of January and the first day of April in each year, and the landholder shall pay the cost of service: it shall be served personally on the tenant, if practicable; but if he cannot be found, service may be made by affixing the notice to his usual place of residence.

**39. (a). The tenant, on whom such notice has**

*Effect of failure of tenant to institute suit to contest liability to ejection.* been served, may, within thirty days next after the service, make an application to the Collector of the

District or Assistant Collector, contesting his liability to be ejected.

(b). When such an application is made, the Collector of the District or Assistant Collector shall proceed to determine the question between the parties.

(c). On the determination of such question adversely to the tenant, or, where no application under this section has been made within the said period of thirty days, on the expiration of such period, the tenancy of the land in respect of which the notice has been served shall cease:

Provided that when such question has been determined or such period has expired, as the case may be, before the first day of May next following the making of the application under section 38, the tenancy shall continue until and cease upon that day:

Provided also that the tenancy shall not cease under this section when after the service of the notice, the landholder authorises the tenant to continue in the occupation of the land.

**40. If the landholder require assistance to eject**

*Procedure to enforce ejection.* the person whose tenancy is alleged to have ceased under the provisions of section 39, he may, within fifteen days from the date of such cessation, apply to the Collector of the District or Assistant Collector for such assistance, and the Collector of the District or Assistant Collector shall order the ejection of such tenant if he is satisfied—

- (a) that the notice was duly served on such tenant under section 38;
- (b) that he has not been authorized by the landholder to continue in occupation;
- (c) that the tenant has not made the application mentioned in section 39, clause (a); or
- (d) that if such application has been made, the question has been determined adversely to the tenant:

Provided that no such application for the ejection of a farmer on the determination of a lease shall be received if the lease be of the kind in which an advance has been made by the lease-

holder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the landholder must proceed by suit in the Civil Court.

**41.** If the landholder expressly authorise the notice of ejectment tenant, on whom the notice when void. of ejectment has been served, or against whom any proceedings in ejectment under section 40 have been taken, to remain in occupation of the land, and to prepare it for the harvest, the proceedings shall become void.

**42. (a).** Any tenant ejected in accordance with Rights of ejected the provisions of this Act, tenant. shall be entitled to any growing crops or other ungathered products of the earth belonging to the tenant, and growing on the land at the time of his ejectment, and to use the land for the purpose of tending and gathering in such crops or other products, paying adequate rent therefor:

(b). Provided that, if the landholder desire to purchase such crops or other products, he may tender their price to the tenant; and thereupon the right of the tenant to such crops and other products, and to use the land for the purpose aforesaid, shall cease.

(c). In the case of a dispute under this section, Power to determine the Collector of the District rent and price. or Assistant Collector may, on the application of the landholder or tenant, award the rent and price so payable; and the amount of such award, or of any tender accepted under this section, shall be recoverable as an arrear of rent by suit under this Act.

(a). The rent, if any, payable to the landholder by the tenant at the time of Set-off of rent. his ejectment may be set-off against the price of the said crops or other products.

**43. (a).** Wherever rent is taken by division of the produce in kind, or by Application for officer estimate or appraisement of the standing crop, or other procedure of a like nature, requiring the presence both of the cultivator and landholder, either personally or by agent,

if either landholder or tenant, personally or by agent, neglect to attend at the proper time, or if there is a dispute as to the amount or value of the crop,

an application may be presented by either party to the Collector of the District or Assistant Collector, requesting that a proper officer be deputed to make the division, estimate or appraisement.

(b). On receiving such application, the Collector Procedure on such of the District or Assistant application. Collector shall issue a written notice to the opposite party or his agent, to attend on the date and at the time specified in the notice, and shall depute an officer before whom such division, estimate or appraisement shall be made.

(a). If on or before the date appointed, the dispute has not been amicably adjusted, three residents of the village or neighbourhood shall be appointed assessors; one by each of the parties and one by the officer deputed to divide the grain or estimate or appraise the crops, and the officer

deputed shall decide the amount of rent payable by their award, and shall give to the party applying a written authority to divide the grain or cut the crops:

(d). Provided that, if either party fail to attend, the officer deputed shall nominate an assessor on his behalf.

(e). The officer deputed shall report his proceedings to the Collector of the District or Assistant Collector, who shall determine the amount of costs properly incurred under this section, and the share of the costs to be paid by either party.

**(C).—Compensation for Improvements made by Tenants.**

**44.** If any tenant, or any person from whom Tenants' right to compensation. he has inherited or purchased, make any such improvements on the land in his possession as are hereinafter mentioned, neither he nor his representative shall be ejected from the same land without payment of compensation for such improvements.

*Explanation.*—In this section the word "tenant" does not include a thékudár or a katkanadár and the word "improvements" means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and comprises—

(a) tanks, wells and other works for the storage, supply or distribution of water for agricultural purposes,

(b) works for the drainage of land, or for the protection of land from floods or from erosion or other damage by water,

(c) the reclaiming, clearing, or enclosing of lands for agricultural purposes,

(d) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto.

Notwithstanding anything hereinbefore contained, no tenant, other than a tenant at fixed rates or an occupancy-tenant, shall be entitled to compensation in respect of any improvement made without the consent of the landholder after this Act comes into force.

**45.** Such compensation may, at the option of the Mode of making compensation. landholder or his representative, be made—

1st,—by payment in money;

2nd,—by a rent to be charged on the land;

3rd,—by the grant of a beneficial lease of the land, by the landholder or his representative, to the tenant or his representative;

4th,—partly by one or by any two of the said ways, and partly by the others or other of the same ways.

**46.** In case of difference as to the amount or Settlement of difference. value of the compensation once as to amount or tendered, either party may value of compensation. apply to the Collector of the District or Assistant Collector stating the matter in dispute, and requesting a determination thereof.

On receiving such application, the Collector of the District or Assistant Collector shall—

(a) cause notice thereof to be served on the other party,

(b) take such evidence as the parties or either of them may adduce,

(c) make such further inquiry as the Collector of the District or Assistant Collector may deem necessary, and

(d) determine the amount of the payment in money, and the amount and incidence of the rent-charge, and the terms of the lease, or any of such matters.

**47.** In determining the amount or value mentioned in section 46, or the Considerations in determining compensation, terms of such lease, the Collector of the District or Assistant Collector shall take into account any assistance given to the tenant by the landholder either directly in money, material or labour, for the purpose of making such improvements, or indirectly by allowing the tenant to hold at a favourable rate of rent.

*(D).—Compensation for wrongful acts and omissions.*

**48.** Every tenant from whom any sum is exacted in excess of the rent specified in his lease or payable under the provisions of this Act,

Right of tenant to compensation for exactions in excess of rent or for withholding receipt. and every tenant from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the landholder compensation not exceeding double the amount so exacted or paid.

Receipts for rent shall specify the period or crop on account of which the rent

Contents of receipt. is acknowledged to have been paid;

and any refusal to make such specification shall be held to be a withholding of a receipt.

*Explanation.*—In this section the word "tenant" does not include a thékadár or a katkamadár.

**49.** If payment of rent, whether the same be legally due or not, is extorted from any tenant by illegal confinement or other

Damages for extorting payment of rent by sur. duress, he shall be entitled to recover from the person guilty of such extortion such further compensation, not exceeding the sum of two hundred rupees, as the Collector of the District or Assistant Collector thinks reasonable.

An award of compensation under this section shall not bar or affect any Liability to punishment for extortion not affected. penalty or punishment to which the person guilty of such extortion may be subject under the Indian Penal Code.

*(E).—Deposit of Rent in Court.*

**50.** If any tenant tenders to the landholder full payment of the rent due

Deposit of amount tendered by tenant and refused. from him, and if the amount so tendered be not accepted, and a receipt for the amount

forthwith granted, the tenant may thereupon apply to the Collector of the District or Assistant Collector for leave to deposit such amount in his Court to the credit of the landholder.

**51.** The application to the Collector of the District or Assistant Collector

Form and verification of application. shall be as nearly as may be in the form (A) in the first schedule hereto annexed, and shall be verified in the manner hereinafter prescribed for the verification of plaints.

And the person making the verification shall be punishable, if the application contain any averment which he knows or believes to be false, or does not know or believe to be true.

**52.** The Collector of the District or Assistant Collector shall receive the Notice to issue on deposit being made. amount which the tenant desires to deposit, and shall thereupon issue to the person to whose credit it has so been deposited, a notice in English or the vernacular language of the district in the form (B) in the first schedule hereto annexed, or to the like effect.

And such deposit shall, in all questions between the landholder and the tenant, be deemed to be a payment made by the tenant to the landholder on account of the rent.

**53.** Such notice shall be served through the Mode of serving notice. tahsildár upon the person to whom it is addressed, or upon his recognized agent.

In their absence, the notice shall be affixed at the chaupál, or other conspicuous place in the village in which the land for which the rent is due is situate.

**54.** If at any time before the expiration of three years from the date of the Payment to person served with notice on his application. deposit the person on whom such notice is served, or his recognized agent, appears

and applies that the money in deposit be paid to him, it shall be paid accordingly, unless it has been repaid or paid in accordance with the provisions next hereinafter contained.

**55.** If no application be made by such person or Refund to depositor. his recognized agent, the sum shall be repaid to the depositor on the expiration of three years from the date of the deposit.

And at any time before the expiration of such period, on the joint application of the depositor and the person to whose credit the said sum was deposited, such sum shall be paid in such manner as the joint applicants desire.

**55A.** When, owing to the death of the landlord or other cause, two or more persons severally claim the right to collect the rent from

Deposit in Court of rent claimed by two or more persons. a tenant, the tenant may apply to the Collector of the District or the Assistant Collector for leave to deposit in Court the full amount of rent due from him, and such deposit, if made with the leave of the Collector or Assistant Collector, shall, in all questions between the landholder and the tenant, be deemed to be a payment made by the tenant to the landholder on account of the rent.

The Collector of the District or Assistant Collector may, after such enquiry as he thinks necessary, direct payment of the amount deposited to such one of the persons claiming such rent as appears to him entitled to receive the same, or may order the same to remain in deposit pending decision by a competent Court.

No suit shall lie against the Secretary of State for India in Council or against any officer of Government in respect of any payment made under this section, but nothing herein contained shall affect the right of any person entitled to such

payment to recover the amount thereof from any other person to whom it has been paid.

### CHAPTER III.

#### DISTRESS.

**56.** The produce of all land in the occupation of a cultivator shall be deemed hypothecated for the rent payable in respect of such land; and until such rent has been satisfied, no other claim on such produce shall be enforced by sale in execution of decree or otherwise;

and when an arrear of rent is due from any cultivator, the person entitled to receive rent immediately from him may, instead of suing for the arrear as hereinafter provided, recover the same by distress and sale of the produce of the land in respect of which the arrear is due, under the rules contained in this chapter.

**57. Provided—**

(a) that when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given shall not be liable to be distrained;

(b) that no sharer in any mahál shall have power to distrain upon any cultivator unless he is entitled to collect the whole rent from such cultivator;

(c) that no sharer in a joint undivided mahál shall exercise such power otherwise than through a manager authorized to collect the rents of the whole mahál on behalf of all the sharers therein;

(d) that in patti<sup>1</sup> maháls distress shall be made only through a lambardár, or, where the rent of a mahál is not collected by a lambardár, through the pattidár who is entitled to collect the rent.

**58. A distress shall not be made for any arrear which has been due in respect of any land for a longer period than one year:**

No distress for over-due arrear, nor, without agreement, for excess over past year's rent. nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless the rent has been enhanced under the provisions hereinbefore contained, or by order of a Settlement-officer, or unless the cultivator has agreed to pay such excess and such agreement has been attested before the kánungo.

**59. The power to distrain conferred by sections 56 and 57 may be exercised under Court of Wards, by managers under the Court of Wards and other persons lawfully entrusted with the charge of immoveable property;**

and also by the agents employed by such persons as aforesaid, in the collection of rent, if expressly authorized by power-of-attorney in that behalf:

If any wrongful act is committed by any such agent, under colour of the exercise of the said power, such agent and his principal shall be jointly and severally liable to make compensation for such act.

**60. When any person, empowered to distrain**

Written authority to property under section 56, servants employed to section 57 or section 59, distrain. employs a servant or other person to make the distress, he shall give him a written authority for the same, and the distress shall be made in the name of the person giving such authority.

**61. Standing crops and other ungathered pro-**

Standing crops and duets of the earth, and crops crops gathered liable to or other products when distress. reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with power to distrain under the provisions of this Act.

But no such crops or products, other than the

Exception. produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to be distrained under this Act.

**62. Before or at the time when a distress is**

Defaulter to be served made under this Act, the with written demand distrainer shall cause the and account. defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be

Mode of service. served personally on the defaulter; or, if he abscond or conceal himself, so that they cannot be so served, shall be affixed at his usual place of residence.

**63. Unless the ame**

Distress to be proper. dn.

tionate to arrear. distra.

erty as aforesaid equal in

List of property to be prepared and copy served on owner. may be, t. arrear and . distress; and s.

list or description of the said property, .

a copy of the same to the owner, or, if he sent, affix it at his usual place of residence.

**64(a). Standing crops and other ungathered pro-**

Standing crops, &c., duets may, notwithstanding when distrained, may be the distress, be reaped and gathered by the cultivator, and he may store the same in such granaries or other places as are commonly used by him for the purpose.

(b). If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

(c). In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

(d). Crops or products which, from their nature,

Sale of products which do not admit of being stored, cannot be stored. may be sold before they are reaped or gathered, under the rules hereinafter provided; but in such case, the distress shall be made at least twenty days before the time when the crops, or products, or any part of the same are fit for reaping or gathering.

**65.** If a distrainer is opposed, or apprehends Assistance to distrainer resistance, and desires to opposed or apprehending obtain the assistance of a resistance. public officer, he may apply to the Collector of the District or Assistant Collector, who may, if he thinks necessary, depute an officer to assist the distrainer in making the distress.

**66.** If at any time after property has been dis- Distress to be with- trained and before the day drawn on tender of ar- fixed for putting it up to sale rear and expenses before as hereinafter provided, the sale owner of the property ten- ders payment of the arrear demanded of him, and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

**67.** Within five days from the time of the stor- ing of any distrained crops Application for sale. or products, or, if the crops or products do not, from their nature, admit of being stored within five days from the time of making the distress,

the distrainer shall apply for sale of the same to the officer for the time being authorized by the Local Government to sell distrained property within the tahsîl in which they are situate.

Contents of applica- tion.

**68.** The application shall be in writing, and shall contain—  
(a) an inventory or description of the property distrained,  
(b) the name of the defaulter and his place of residence,  
(c) the amount due, and the date of the distress, and  
... the distrained property

application, the distrainer shall deliver to the said officer the fee for the service of the defaulter as hereinafter pro-

... imediately on receipt of the application, ... eure on receipt the said officer shall send a copy of it to the Collector of the District or Assistant Collector,

and shall serve a notice in the form (C) contained in the first schedule hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector of the District or Assistant Collector, within the period of fifteen days from the receipt of the notice.

He shall at the same time send to the Collector of the District or Assistant Collector, for the purpose of being put up in his office and in the office of the tahsildâr, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the person charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain—

- (a) a description of the property, and shall specify—
- (b) the demand for which it is to be sold, and
- (c) the place where the sale is to be held.

**70.** If a suit is instituted before the Collector of the District or Assistant Collector in pursuance of the suspension of sale on receipt of Collector's certificate of institution of aforesaid notice, the Collector of the District or Assistant

Collector shall send to the officer referred to in section 67, or, if so requested, shall deliver to the owner of the distrained property, a certificate of the institution of such suit;

and on such certificate being received by, or presented to, the said officer, he shall suspend the sale.

**71.** A person whose property has been distrained Suit to contest dis- in manner hereinbefore provided may, immediately after traainer's demand before issue of notice of sale. the distress, and before the issue of notice of sale, institute a suit to contest the demand of the distrainer.

When such suit is instituted, the Collector of the District or Assistant Collector shall proceed in the manner prescribed in the last preceding section.

If, thereafter, application for the sale of the property is made to the said officer, he shall send a copy of the application to the Collector of the District or Assistant Collector, and suspend further proceedings, pending the decision of the case.

**72.** The person whose property has been dis- trained may, at the time of instituting any such suit as Distress when to be withdrawn. aforesaid, or at any subse-

quent period, execute a bond with a surety, binding himself to pay whatever sum may be adjudged to be due from him, with interest and costs of suit;

and when such bond is executed, the Collector of the District or Assistant Collector shall give to the owner of the property a certificate to that effect, and, if so requested, serve the distrainer with notice of the same;

and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Collector of the District or Assistant Collector, the property shall be released from distress.

**73.** If the institution of a suit to contest the demand of the distrainer has When sale may be pro- not been certified, in manner ceeded with. hereinbefore provided, to the

said officer, on or before the day fixed in the proclamation of sale, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, in manner hereinafter mentioned, to sell the property or such part of it as may be necessary to satisfy the demand with the costs of distress and sale.

**74.** The sale shall be held at the place where Place of sale. the distrained property is, or at the nearest place of public resort, if the said officer is of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction, in Manner of sale. one or more lots, as the officer holding the sale may think advisable;

and if the demand, with the costs of distress Withdrawal of distress and sale, be satisfied by the when demand and costs satisfied. sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

**75.** If, on the property being put up for sale, a fair price be not offered, sale may be postponed and shall be then completed, and if the owner of the property, or some person authorized to act on his behalf, apply to have the sale postponed until the next day, or, if a market be held at the place of sale, the next market-day, the sale shall be postponed until such day and shall be then completed whatever price may be offered for the property.

**76.** The price of every lot shall be paid for in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks necessary;

and, in default of such payment, the property shall be put up again and sold, and the deficiency in price (if any) which may happen on such second sale and all expenses attending such second sale shall, at the instance either of the distrainer or the owner of the property, be recoverable from the defaulter under the rules hereinafter contained for the execution of a decree for rent.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

**77.** From the proceeds of every sale of distrained property under this Act, the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall send the amount so deducted to the Collector of the District or Assistant Collector.

He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress, and of the issue of the notice and proclamation of sale prescribed in section 69, to such amount as, after examining the statement of expenses furnished by the distrainer, he thinks proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be delivered to the person whose property has been sold.

**78.** Officers holding sales of property under this Act, and all persons employed by or subordinate to such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

**79.** Officers holding sales under this Chapter are required to bring to the notice of the Collector of the District or Assistant Collector any material irregularities committed by distrainers under colour of this Act;

and if, in any case, on proceeding to hold any such sale, the officer holding it find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report

the case to the Collector of the District or Assistant Collector, who shall thereupon direct the issue of another notice and proclamation of sale under section 69, or pass such other order as he thinks fit.

**80.** When an officer goes to any place for the purpose of holding a sale under this Act, and no sale takes place, either for the reason stated in section 79, or because the demand of the distrainer has been previously satisfied without any intimation of such satisfaction having been given by the distrainer to such officer, the charge of one anna in the rupee on account of expenses shall be leviable, and shall be calculated on the estimated value of the distrained property.

If the distrainer's demand be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property, and may be recovered by the sale of such portion thereof as may be necessary.

In every other case it shall be paid by the distrainer, and may be recovered by attachment and sale of his property under the warrant of the Collector of the District or Assistant Collector:

Provided that in no case shall a larger amount than ten rupees be recoverable under this section.

**81.** When a suit has been instituted to contest the demand of a distrainer, and the distrained property has not been released on security, if the demand or any portion of it is adjudged to be due, the Collector of the District or Assistant Collector shall issue an order to the officer authorizing the sale of such property;

and, on the application of the distrainer within five days from the receipt of such order by the officer, such officer shall publish a second proclamation in the manner prescribed in section 69, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation;

and, unless the amount adjudged to be due with the costs of distress be paid, shall proceed to sell the property in the manner herein-before provided.

**82. (a)** In all suits instituted to contest the demand, distrainer to be required to prove the arrear in the same manner as if he had himself brought a suit for the amount under the provisions hereinafter contained.

**(b)** If the demand or any part thereof is found to be due, the Collector of the District or Assistant Collector shall make a decree for the amount in favour of the distrainer, and such amount may be recovered by sale of the property, as provided in the last preceding section, if the distress has not been withdrawn;

and, if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter,

or if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

(c) If the distress is adjudged to be vexatious or Compensation in case of vexatious distress. the Collector or Assistant Collector, besides directing the release of the distrained property, may award such compensation to the plaintiff as the circumstances of the case require.

**83.** (a) If any person claim as his own, property Suit by person claiming property distrained for arrears of rent alleged to be due from any other person, due from another. which has been distrained to try the right to the property, in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

(b) When any such suit is instituted, the property may be released upon Release of property on security being given for the value of the same.

(c) If the claim is dismissed, the Collector of the District or Assistant Collector shall make an order for Order of Collector when claim dismissed. the sale of the property, or for the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

(d) If the claim is upheld, the Collector of the District or Assistant Collector shall decree the release Decree for release and compensation when claim upheld. of the distrained property with costs, and such compensation (if any) as the circumstances of the case require:

(e) Provided that no claim to any produce of land liable to distress under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any civil Court prevail against such prior claim.

**84.** If, in any case in which property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, the right to distract

for such arrears is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the time of the commencement of the suit shall be enquired into, and in deciding the suit the result of such inquiry shall be taken into consideration:

Provided that the decision of the Collector of the District or Assistant Collector shall not affect the right of any person who may have a legal title to the rent of the land to establish his title by suit in the civil Court if instituted within one year from the date of the decision.

**85.** If any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing a suit to contest the demand or to try the right to the property, as the case may be, within the period allowed by section 69 or 83, and his property is in consequence sold, he may, nevertheless, institute a suit under this Act to recover compensation for such distress and sale.

**86.** If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged, or destroyed by reason of the distrainer not having taken proper precautions for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when it is required to be withdrawn by any provision of this Act,

the owner of the property may institute a suit under this Act to recover compensation for any injury which he has thereby sustained through any act or omission mentioned in the former part of this section.

**87.** If any person not empowered to distrain property under section 56, Suit by owner against person distraining or selling without authority for the purpose under a written authority by a person so empowered, fraudulently distrains or sells, or causes to be sold, any property under colour of this Act, the owner of the property so distrained or sold may institute a suit under this Act to recover compensation from such person for any injury which the plaintiff has sustained from the distress or sale,

and the defendant shall be held to have committed criminal trespass, and shall be subject to the penalties provided for that offence by the Indian Penal Code, in addition to any damages which may be awarded against him in such suit.

**88.** Provided that every suit instituted under Limitation of suits any of the three last preceding sections 85, 86, 87, shall be commenced within the period allowed by section 94.

**89.** (a) If any person resists a distress of property duly made under this resistance of distress. Act, or forcibly or clandestinely removes any distrained property, the Collector of the District or Assistant Collector in charge of the Sub-division, upon complaint being made within fifteen days from the date of such resistance or removal, may cause the person accused to be arrested and brought with all convenient speed before the Collector or Assistant Collector, who shall, if possible, proceed forthwith to try the case.

(b) If the case cannot be at once heard, the Collector of the District or Assistant Collector may, if he think fit, require the party arrested to give

security for his person, and, in default of such security, may commit him to the civil jail until the case is tried,

and if the offence be proved and the offender be the owner of the property concerned, the Collector of the District or Assistant Collector may order him to be imprisoned in the civil jail for a term not exceeding six months, unless the whole arrear due to the distrainer, with all reasonable expenses and costs, is previously to the expiration of such term paid or levied under warrant of the Collector of the District or Assistant Collector by distress and sale of the property of the offender.

(c) If the offender be not the owner of the property concerned, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment in the civil jail for a term which may extend to two months.

**90. All proceedings of officers distraining, or Proceedings of officers assisting distrainers, or subject to revision and holding sales, under this orders of Collector.** chapter, shall be subject to the revision and orders of the Collector of the District or Assistant Collector in charge of a Sub-division of the District.

#### CHAPTER IV.

##### PROCESS.

**91. (a) Every process issued by a Collector of a District or Assistant Collector under this Act shall be under his seal and signature, and shall be served or executed by the Názir, or by such other officer as the Collector of the District or the Assistant Collector may direct, at the cost of the party at whose instance it is issued.**

(b) The amount of such cost, and, in the case of summons to a witness, the sum required for his travelling expenses, shall be deposited in Court before the process is issued:

(c) Provided that, if in any case the Collector of the District or the Assistant Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

**92. Any resistance or opposition to the lawful process of a Collector of the District or Assistant Collector under this Act may be punished by him according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.**

When, in any such case, the offender is not present, the Collector of the District or Assistant Collector may summon him to answer to the charge; and, if after due service of the summons he fails to attend, may issue a warrant for his arrest.

#### CHAPTER V.

##### JURISDICTION OF COURTS.

**93. Except in the way of appeal as hereinafter provided, no Courts other than Courts of Revenue shall take cognizance of any dispute or matter in which**

any suit of the nature mentioned in this section might be brought, and such suits shall be heard and determined in the said Courts of Revenue in the manner provided in this Act, and not otherwise:

(a) suits for arrears of rent, or, where rent is payable in kind, for the money-equivalent of rent, on account of land or on account of any rights of pasturage, forest-rights, fisheries or the like;

(b) suits to eject a tenant for any act or omission detrimental to the land in his occupation or inconsistent with the purpose for which the land was let;

(c) suits to cancel a lease for the breach of any condition binding on the tenant, and which, by law, custom or special agreement, involves the forfeiture of the lease;

(cc) suits for compensation for, or to prohibit, any act, omission or breach mentioned in clause (b) or clause (c);

(d) suits for the recovery of any over-payment of rent, or for compensation under section 48 or 49;

(e) suits for compensation for withholding receipt for rent paid;

(f) suits for contesting the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in the exercise of the said power, or for compensation for wrongful acts or omissions of a distrainer;

(g) suits by lambardárs for arrears of Government-revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues for which the co-sharers may be responsible to the lambardár;

(h) suits by recorded co-sharers for their recorded share of the profits of a mahál, or any part thereof, after payment of the Government-revenue and village-expenses, or for a settlement of accounts;

(i) suits by muáfidárs, or assignees of the Government-revenue, for arrears of revenue due to them as such;

(j) suits by taluqdárs and other superior proprietors for arrears of revenue due to them as such;

(k) suits by recorded co-sharers to recover from a recorded co-sharer who defaults arrears of revenue paid by them on his account.

**94. Suits for arrears of rent or revenue, or for a limitation of suits share of the profits of a mahál, or of village-expenses or other dues, shall not be brought after three years from the day on which the arrears or share became due.**

Suits relating to distress, not being suits to contest the demand or to try the right to the property, shall not be brought after three months from the day on which the right to sue accrued:

All other suits must be brought within one year from the day on which the right to sue accrues, unless otherwise specially provided for in this Act.

The day on which the arrears become due or the day on which the right to sue accrues (as the case may be) shall be excluded in computing the periods of limitation prescribed by this section.

In the absence of any express agreement among the co-sharers and of any order by the Settlement-officer under the North-Western Provinces Land-revenue Act, 1873, section 65, clause (g), the

Board may from time to time, with the previous sanction of the Local Government, make rules for fixing the dates on which profits shall be divisible by the lambardárs.

**95. No Courts other than Courts of revenue**  
Applications cogni- shall take cognizance of any  
able by revenue Courts dispute or matter on which  
only. any application of the nature  
mentioned in this section might be made : and such  
applications shall be heard and determined in the  
said Courts in manner provided under this Act, and  
not otherwise :—

- (a) Application to determine the nature and class of a tenant's tenure, under section 10.
- (b) Application by a landholder, or his agent, to compel a patwári to produce his accounts relating to land.
- (c) Application to resume rent-free grants under section 30, or to assess to rent land previously held rent-free.
- (d) Application from a landholder to eject a tenant under section 35, or to have a notice of ejectment issued and served under section 38.
- (e) Applications made by a tenant under section 39.
- (f) Application from a landholder, under section 40, for assistance to eject a tenant.
- (g) Application from a tenant or landholder to determine the value of any standing crop, or ungathered products of the earth, belonging to the tenant and being on the land at the time of his ejection, under section 42.
- (h) Application by a landholder to determine rent payable for land used by a tenant for the purpose of tending or gathering in the crop, under section 42.

- (i) Application by a landholder or tenant for assistance in the division or appraisement of a standing crop, under section 43.
- (j) Application by a landholder or tenant to determine compensation for improvements of land.
- (k) Application by a tenant for leave to deposit rent.
- (l) Application for enhancement or determination of rent.
- (m) Application for compensation for wrongful dispossession.
- (n) Application for the recovery of the occupancy of any land of which a tenant has been wrongfully dispossessed.
- (o) Application for abatement of rent.
- (p) Application for leases or counterparts, and for the determination of the rates of rent at which such leases or counterparts are to be delivered.
- (q) Application under section 7 to have the holding of an ex-proprietary tenant divided off.
- (r) Application under section 22A to survey land.
- (s) Application under section 33A to have a notice of relinquishment declared invalid.
- (t) Application to take out of deposit any amount deposited under section 55A.

For the purposes of the Court-fees Act, 1870, applications under clauses (c), (l), (m), (n), (o) and (p) of this section shall be deemed to be plaints in suits.

**95A. When any order has been made on an application under this Act, no process for the execution of such order shall be issued on an application made after the lapse of one year from the date of such order, except when special provision is otherwise made in this Act.**

**96. (a) All applications under section 95**  
Points of procedure re- shall be made in the district in which the land,  
lating to applications under section 95. crops or products referred to  
is or are situate.

(b) All orders passed on applications under section 95 shall be proved in the same manner, and when proved shall have the same effect, as if they were judgments of the civil Courts.

(c) In cases wherein a specific sum of money is adjudged to be due, or any costs or damages are awarded, all such orders may be executed by any process in use for the recovery of an arrear of revenue or rent.

(d) In cases wherein possession of immoveable property is adjudged, the officer making the award may deliver over possession in the same manner, and with the same power, in regard to contempts, resistance and the like, as may be lawfully exercised by the civil Courts in execution of their own decrees.

(e) Applications under clauses (m) and (n) of section 95 shall not be brought after six months from the date of the wrongful dispossession.

**96A. All suits and applications under this Act may, with the consent Reference to arbitra- of the parties, be referred tion.** to arbitration under section 220 to section 231 (both inclusive) of the North-Western Provinces Land-revenue Act, 1873.

**97. The Local Government may invest any officer with the powers of an Assistant Collector of the first or second class under this Act, and may at any time withdraw such powers.**

**98. Assistant Collectors of either class shall have, as such, power to try suits and applications of the following descriptions :—**

(a) suits for arrears of rent or the money equivalent of rent on account of land, or on account of any rights of pasturage, forest rights, fisheries or the like ;

(b) suits for compensation for withholding receipts for rent paid, under section 48 ;

(c) suits to contest the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in exercise of the said powers, or for compensation for wrongful acts or omissions of a distrainer ;

(d) suits by lambardárs for arrears of Government-revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues, for which the co-sharers may be responsible to the lambardár ;

(e) suits by muásidárs or assignees of the Government-revenue for arrears of revenue due to them as such ;

(f) suits by taluqdárs or other superior proprietors for arrears of revenue due to them as such ;

(g) applications by a landholder, or by an agent employed by a landholder, to compel the production of accounts by patwáris ;

(h) applications by a tenant or landholder to determine the value of any standing crops or ungathered products of the earth, and being on the land at the time of his ejection, under section 42 ;

(i) applications by a landholder to determine the amount of rent payable by a tenant using land for the purpose of tending or gathering in crops, under section 42 ;

(j) applications by a landholder or a tenant for assistance in the division or appraisement of standing crops, under section 43;

(k) applications by tenants for leave to deposit rent;

(l) suits under section 93, clause (k), to recover arrears of revenue.

(m) applications under section 22A to survey land.

**99. Assistant Collectors of the first class,** in Additional suits and applications triable by Assistant Collectors, first class.

and addition to the suits and applications specified in section 98, shall have power to try

suits and applications of the

following descriptions:—

(a) suits to eject a tenant for any act or omission detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let;

(b) suits to cancel a lease for any breach of any condition binding on the tenant;

(b) suits for compensation for, or to prohibit, any act, omission or breach mentioned in clause (a) or clause (b);

(c) suits for the recovery of any over-payment of rent or for compensation, under section 48 or section 49;

(d) suits by co-sharers for their shares of the profits of a mahal or any part thereof, after payment of the Government-revenue and village-expenses, or for a settlement of accounts;

(e) applications by a landholder to eject a tenant, under section 35;

(f) applications under section 39 by a tenant contesting notice of ejectment;

(g) applications by a landholder under section 40, for assistance to eject a tenant on whom notice of ejectment has been served;

(h) applications for compensation for wrongful dispossession;

(i) applications by a landholder or tenant to determine the amount to be paid as compensation for improvements;

(j) applications to recover the occupancy of any land from which a tenant has been wrongfully dispossessed by the landholder;

(k) applications under section 30 for the resumption of rent-free grants or for the assessment to rent of land hitherto held rent-free;

(l) applications under section 7 to have the holding of an ex-proprietary tenant divided off;

(m) applications under section 33 A to have a notice of relinquishment declared invalid;

(n) applications to take out of deposit amounts deposited under section 55A.

**100. In addition to the powers specified in**

Additional applications triable by Assistant Collector, first class,

with special powers.

Government in this behalf, shall have power to try the following applications:

(a) applications for enhancement or determination of rent;

(b) applications for abatement of rent;

(c) applications for leases or counterparts, and the determination of the rates of rent at which such leases or counterparts are to be delivered;

(d) applications to determine the nature or class of a tenant's tenure.

**101. The Collector of the District, or any Assistant Collector in charge of a**

Power to make over cases.

class of cases, for inquiry and decision, from his own file, to any of his subordinates competent to deal with such case or class of cases under the provisions of this Act.

**102. Collectors of Districts, and Assistant Col-**

lectors in charge of sub- Power to withdraw divisions of districts, may,

respectively, withdraw any case or class of cases from any officers subordinate to them, and may deal with such case or class of cases themselves, or refer it for disposal to any other such Revenue-officer competent to deal with the same under the provisions of this Act.

**103. The Collector of the District may exercise—**

Powers exercisable by Collector of District. (a) all powers given by this Act to Collectors of Districts,

(b) all powers which by this Act are conferred, or can be conferred, on Assistant Collectors.

The Local Government may invest any officer

Investment of officer in charge of a sub-division in charge of sub-division with powers of Collector of District.

of a district with all or any of the powers conferred by

this Act on a Collector of

a District.

In conferring powers under this Act, the Local Mode of conferring Government may empower powers persons specially by name, or classes of officials generally by their official titles.

## CHAPTER VI.

### PROCEDURE IN SUITS UP TO JUDGMENT.

**104. Suits under this Act shall be instituted in** Places of instituting the district in which the suits. subject of the suit, or some part thereof, is situate,

and all such suits shall be commenced by presenting to the Court a plaint, Plaintiff. which shall contain—

(a) the name, description and place of abode of the plaintiff;

(b) the name, description and place of abode of the defendant, so far as they can be ascertained;

(c) the subject-matter of the claim, and its amount or value computed according to the Courts Act, 1870; and

(d) the date on which the right to sue accrued.

**105. For the purpose of suing or being sued**

Managers of mahals to under this Act, the managers, for purpose of litigation, deemed landholders. under the Court of Wards or under direct management, shall be deemed to be landholders.

**106. No co-sharer in an undivided property shall,**

Suits by co-sharers in in that character, be entitled separately to sue a tenant under this Act, unless he is

authorized to receive from such tenant the whole of the rent payable by such tenant; but nothing in this section shall affect any local custom or any special contract.

**107. The plaint shall be presented by the**

Plaint by whom pre- plaintiff, or by an agent duly

sented. authorized on his behalf, who has personal knowledge of the facts of the case, or by an agent accompanied by a person who has such knowledge.

The plaintiff shall be subscribed and verified at the Verification of plaintiff foot by the plaintiff or his agent in the manner following, or to the like effect:—

"I, A. B., the plaintiff named in the above plaint, do declare that what is stated therein is true to the best of my knowledge and belief."

If the plaintiff contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be punishable according to the law for the punishment of giving or fabricating false evidence.

**108.** If the plaintiff rely in support of his claim Document relied on by on any document in his plaintiff to be presented possession, he shall deliver with plaint. the same to the Court at the time of presenting his plaint.

Unless such document be so delivered, or its Admission afterwards. non-production be sufficiently excused, or unless the Court see fit to extend the time for producing the same, it shall not afterwards be admitted.

**109.** If the plaintiff require the production of Procuring production any document in the possession of document in posses- sion or power of the defendant, he may, at the time of presenting his plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

**110.** If the suit be for the recovery of an arrear of rent or revenue, or of a share of profits or village-expenses, or other dues under section 93, the plaintiff shall specify the name of the village and estate, and of the pargana or other local division in which the land is situate:

and, if the suit be for an arrear of rent alleged to be due from any tenant, the plaintiff shall also specify the quantity of land, and (where fields have been numbered in a Government-survey) the number of each field, and yearly rent of the land; the amount (if any) received on account of the year for which the claim is made; and in all cases coming under this section the plaintiff shall specify the amount in arrear, and the time in respect of which it is alleged to be due.

**111.** If the suit be for the ejectment of a tenant Plaintiff in suits for from any land, the plaintiff shall describe (as circumstances may require) the extent, situation and designation of the land; and, if necessary for its identification, shall set forth its boundaries.

**112.** If the plaintiff do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Court may, at its discretion, return it to the plaintiff, or allow it to be amended.

**112A.** The Court may, on or before the first hearing upon the application of either party, and on such terms as the Court thinks just, order that the name of any party, whether as plaintiff or as defendant, improperly joined, be struck out;

and the Court may at any time, either upon or without such application, and on such terms as the Court thinks just, order that any plaintiff be made a defendant, or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

No person shall be added as a plaintiff without his own consent thereto.

**112B.** All parties whose names are so added as defendants shall be served with Defendants added to a summons in manner hereinafter mentioned, and the proceedings as against them shall be deemed to have begun only on the service of such summons:

Provided that, when a defendant dies and the suit is continued against his legal representative, it shall, as regards him, be deemed to have been instituted when it was instituted against the deceased defendant.

**112C.** All objections for want of parties, or for Time for taking objec- tions as to non-joinder or mis-joinder of parties. joinder of parties who have no interest in the suit, or for mis-joinder as co-plaintiffs or co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the first hearing, and any such objection not so taken shall be deemed to have been waived by the defendant.

**112D.** If the plaintiff be admitted, the plaintiff shall present as many copies of plain paper of the plaintiff as there are defendants, unless the Court, by reason of the length of the plaintiff, or the number of the defendants, or for any other sufficient reason, permits him to present a like number of concise statements. Concise statements. statements of the nature of the claim made, or of the relief or remedy required in the suit, in which case he shall present such statements.

**113.** If the plaintiff be in proper form, the Court, Issue of summons. except as otherwise herein-after specially provided, shall direct the issue of a summons to the defendant,

and if the plaintiff require the personal attendance of the defendant, and Order for personal attendance or appearance by agent. satisfy the Court that such attendance is necessary, or the Court of its own accord require such attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons.

If the plaintiff or the Court does not require the personal attendance of the defendant, the summons shall order the defendant to appear either personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or is accompanied by a person who has such personal knowledge.

**114.** The day to be specified in the summons

Fixing of day to be specified in the summons. shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held,

and the summons shall order the defendant to

Order to produce documents. produce any document in his possession or power of which the plaintiff demands inspection, or upon which the defendant relies in support of his defence.

It shall also direct him to bring with him his

Order to bring witnesses. witnesses, if they are willing to attend without issue of process,

and it shall be in the form (D) contained in the

Form of summons. first schedule hereto annexed, or to the like effect.

It shall be accompanied with one of the copies

Copy or statement annexed to summons. or concise statements mentioned in section 112 D.

**115.** The summons shall be served by delivering

Mode of serving summons. a copy thereof to the defendant personally when practicable;

or, if the copy cannot be delivered to the defendant personally, by affixing copy of the summons to some conspicuous part of his usual residence, and also affixing a copy of the same in the Court.

**116.** If the summons be served by delivering a

Endorsement on summons. copy to the defendant personally, the Názir shall endorse on the summons the

fact of such service.

If personal service be not effected, the Názir shall endorse on the summons the reason of not serving it personally, and how it has been served.

**117.** If the usual residence of the defendant be

Service of summons in another district. in another district, the summons shall be sent by the public post to the Collector of such district, who shall issue the summons, and return the same, after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

**117A.** If the defendant resides out of British

Service when defendant resides out of British India and has no agent. India, and has no agent in British India empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing, and forwarded to him by post, if there be postal communication between such place and the place where the Court is situate.

**117B.** If there be a British Resident or Agent

Service through British Resident or Agent of Government. of Government in or for the territory in which the defendant resides, the summons

may be sent to such Resident or Agent by post or otherwise for the purpose of being served upon the defendant; and if the Resident or Agent return the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be conclusive evidence of such service.

Deposit of cost of serving summons or warrant. 118. The amount of the cost of serving the summons, or, if a warrant be issued as provided in the next following section, of serving the warrant,

shall in all cases be deposited in Court by the plaintiff within such time before the issue of such summons or warrant as is fixed by the Court issuing the process.

If the said amount be not so deposited (except Effect of failure to deposit. where the Court in exercise of the discretion reserved to it in section 91 allows the summons to be served gratis), the case shall be struck out of the list of pending suits;

but in such case the plaintiff may present another plaint at any time within the period allowed by the rules herein contained for the limitation of suite.

**119.** (a) If in any suit against a tenant for the recovery of an arrear of rent, or in any suit for the recovery of an arrear of revenue,

or a share of profits or village-expenses or other dues, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, the plaintiff small present, with his plaint, an application for the issue of such warrant.

(b) When such application is presented, the Court shall examine the plaintiff or his agent, and inspect the documents adduced by him in support of his claim; and if *prima facie* it appear to the Court that the claim is well founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Court may issue a warrant for his arrest.

(c) The Court shall fix a reasonable time for the return of the warrant, and the officer entrusted with the service thereof shall, at the time of arresting the defendant, deliver to him one of the copies or concise statements mentioned in section 112 D and a notice requiring him, if he contest the claim, to bring with him any document upon which he relies in support of his defence.

(d) Every warrant issued and notice delivered under this section shall be respectively in the forms (E) and (F) in the first schedule hereto annexed, or to the like effect.

**120.** If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Court.

**121.** When a defendant is brought before the Court under warrant, the defendant is brought before Court shall, with all convenient speed, proceed to try the case in the manner hereinafter provided,

and if the suit cannot be at once adjudicated, the Court may, if it think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon,

and may commit him to the civil jail to be there detained until he furnishes such security or deposits such sum as the Court orders.

The security-bond shall be in the form (G) contained in the first schedule hereto annexed, or to the like effect.

**122.** If the defendant cannot be arrested under Procedure when de- the warrant, the Court, on fendant cannot be arrest- the application of the plaint- ed under warrant. iff, shall either postpone the case for such period as to it seems proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation, to be affixed in its own office and at the residence of the defendant, appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice, at the residence of the defendant.

If the defendant appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

**123.** If it appear to the Court that the arrest of Compensation for ar- the defendant was applied rest applied for without reasonable cause, reasonable cause. the Court may, in its decree, award to him such sum not exceeding one hundred rupees as it may deem a reasonable compensation for any injury or loss which he has sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

**124.** If on the day fixed by the summons or Consequence of neither proclamation for the appearance of the defendant, or on fixed. any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

**125.** If on any such day only the defendant appears, Judgment by de- the Court shall pass judgment against the plaintiff by default, unless the defendant admits the Judgment upon ad- plaintiff's right to the relief mission of claim. which he claims, in which case the Court shall proceed to give judgment for the plaintiff upon such admission without costs:

Provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

**126.** If on any such day the plaintiff only appears, If plaintiff only ap- the Court, upon proof pear, Court may proceed that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or other evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

**127.** If the defendant appear on any subsequent day to which the hearing of the suit is postponed under the last preceding section, the Court may, upon such conditions, if any, as to costs or otherwise as it thinks proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

**128.** (a) No appeal shall lie from a judgment No appeal from judg- passed *ex parte* against a defendant, *ex parte* or by default; or from a judgment against a plaintiff by default for non-appearance.

(b) But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff, within fifteen days from the date of the Court's decree, and, if a defendant, within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Court that there has been a failure of justice, the Court may, upon such terms as to costs or otherwise as it thinks proper, revive the suit and alter or rescind the judgment according to the justice of the case.

(c) But no judgment shall be reversed or altered Adverse party to be without previously summon- summoned. ing the adverse party to appear and be heard in support of it.

**129.** When both parties appear in person or by Examination. agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Court, the Court shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other party or his agent.

**130.** If either of the parties be not bound to attend personally, any agent Examination and cross- by whom he appears, or any examination of agents. person accompanying such agent, may be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

**131.** At the time of the examination, the defendant may file a written statement. Defendant may file a written statement in his defence.

Such written statement shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and if it contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be punishable according to the law for the punishment of giving or fabricating false evidence.

**132.** The examination of the parties or their agents, or such other persons as aforesaid, shall be according to the law for the time being in force relative to the examination of witnesses in the civil Courts.

The substance of the examination shall be reduced to writing in the mother-tongue of the presiding officer, and shall be filed with the record.

**133.** If either of the parties produce a witness Witness produced may be examined. on such day, the presiding officer may take the evidence of such witness.

**134.** If the defendant rely on any document in Document relied on by support of his defence, he defendant to be produced shall deliver the same into at first hearing. Court at the first hearing of the suit :

and unless such document be so delivered, or its non-production be sufficiently excused, or unless the presiding officer see fit to extend the time for delivering the same, it shall not afterwards be admitted.

**135.** If after the examination required by section Decree after examination. 129, and also the examination, if no further evidence is required, of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Court shall make its decree accordingly.

**136.** If on such examination as aforesaid either Party to attend in person when his agent is unable to answer, any material question relating to the case which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the case to a future day, and direct that the party whose agent was unable to answer as aforesaid shall attend in person on such day ;

and if such party fails to appear in person on the Judgment or order if he fail to appear, may pass judgment as in case of default, or make such other order as it deems proper in the circumstances of the case.

**137.** If on such examination as aforesaid it appears that the parties are at issue on any question upon requiring evidence, which it is necessary to hear further evidence, the Court shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit ; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Court.

**138.** The parties shall produce their witnesses Parties to produce witnesses or procure attendance by summons. on the day of trial, and if either party require assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Court in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day ; and the Court shall thereupon issue a summons requiring such witness to attend.

**139.** The law and rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the civil Courts, shall, except so far as may be inconsistent with the provisions herein contained, apply to suits under this Act.

**140.** If on the day fixed for the trial of any issue neither of the parties Case to be struck off if neither party appears. appear, the case may be struck off, with liberty to the plaintiff to bring a fresh suit.

If on any such day one only of the parties Trial of issue ex parte. appear, the issue may be tried and determined in the absence of the other party, upon such evidence as may be then before the Court.

**141.** When suits under this Act are instituted Provisions to apply when suits are instituted or defended on behalf of landholders by agents. or defended by agents employed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such agents ;

and anything which by this Act is required or permitted to be done by a party in person may be done by any such agent as aforesaid.

Processes served on any such agent shall be as effectual for all purposes in such agents relation to the suit as if the same had been served on the landholder in person :

and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.

**142.** A female plaintiff or defendant shall not be required to attend in person when not required. Personal attendance of female plaintiff or defendant when not required, or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

**143.** Any party to a suit may employ an authorized agent to conduct the case on his behalf : but the employment of such agent shall not excuse the personal attendance of the plaintiff or defendant, in cases where his personal attendance is required by the summons, or any order of the Court ;

and no fee for any agent shall be charged as part of the costs of suit in any case under this Act, unless the Court certifies that, under the circumstances of the case, such fee is proper to be allowed.

**144.** The Court may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also, from time to time, in order to the production of further evidence, or for other sufficient reason to be recorded by the Court, adjourn the hearing of any case to such day as to it may seem fit.

**145.** The presiding officer may, at any stage of a case, cause a local enquiry and report, or and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government, with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force relative to local inquiries by Amins or Commissioners, under orders of the civil Courts, shall apply to any local inquiry made by any officer under this section, and, so far as they are applicable, to inquiries made by the presiding officer of the Court in person.

In the latter case the presiding officer, after completing the inquiry, shall record such observations as appear to him appropriate, and the observations so recorded shall form part of the proceedings in the suit.

**146. The defendant in any suit under this Act**  
Defendant may pay admitted debt and costs sum of money as he thinks into Court. a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sums shall be paid to the plaintiff.

If the defendant deposit less than the sum claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than has been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

**147. No interest shall be allowed to a plaintiff**  
No interest to plaintiff after date of deposit by defendant on any sum paid by the defendant into the Court from the date of such payment, whether such sum be in full of the plaintiff's claim, or fall short thereof.

**148. When, in any suit between a landholder and a tenant under this Act,**  
In suits where right to receive rent is disputed, third person who has received it may be made a party. the right to receive the rent of the land or tenure cultivated or held by the tenant is disputed on the ground that some third person has actually and in good faith received and enjoyed such rent before and up to the time when the right to sue accrued, such third person may be made a party to the suit, and the question of such receipt and enjoyment of the rent by such third person may be enquired into, and the suit shall be decided according to the result of such enquiry:

Provided that the decision of the Court shall not affect the right of either party entitled to the rent of such land to establish his title by suit in the civil Court, if instituted within one year from the date of the decision.

**149. Whenever a decree is given for the ejectment of a tenant, or the cancellation of his lease, on account of any act or omission by which the land in his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it think fit, allow him to repair such damage within one month from the date of the decree, or order him to pay such compensation, within such time, or make such other order in the case, as the Court thinks fit, and if such damage be so repaired, or compensation so paid, or order obeyed, the decree shall not**

**150. Every judgment under this Chapter shall be pronounced in open Court.**

**151. The judgment shall be written in the mother tongue of the presiding officer, and shall contain the reasons for the same, and shall be dated and signed by the presiding officer at the time it is pronounced:**  
Provided that, where his mother-tongue is not English, the judgment may be written in English, if he is able to write a clear and intelligible decision in that language.

**151A. The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or proportion.**

**151B. Except as hereinbefore provided, the Court shall have full power to give and apportion costs of every suit in any manner it thinks fit; and the fact that the Court has no jurisdiction to try the case is no bar to the exercise of such power; but if the Court directs that the costs of any suit shall not follow the event, the Court shall state its reasons in writing.**

**151C. The Court may direct that the costs payable to one party by another shall be set off against sums admitted or found in the suit to be due from the former to the latter.**

**151D. Except as hereinbefore provided, the Court may give interest at any rate not exceeding six per cent. per annum, on any sum decreed or found to be due, or on costs.**

**152. Every officer invested with powers under this Act may hold a Court in my place within district for hearing and determining suits under this Act in any place within the limits of the district to which he is appointed.**

Every hearing shall be in open Court, and the parties to the suit or their authorized agents shall have due notice to attend in such place.

## CHAPTER VII.

### PROCEDURE IN EXECUTION OF DECREES IN SUITS.

**153. If the decree be for the ejectment of any tenant from land occupied by him, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree thereto.**

If any opposition is made to the execution of the order for giving such possession or occupancy, by the party against whom the order is made, the Magistrate, on the application of the Collector of the District or Assistant Collector, shall give effect to the same.

**154. If the decree be for the payment of arrears of rent or revenue, or of money, and the defendant has been committed to jail, or appear in Court pursuant to the conditions of any security-bond given under**

section 121, the Collector of the District or Assistant Collector may order that he be detained in, or committed to, the civil jail, unless he immediately pays into Court the amount of the decree with costs, or otherwise complies with the terms of the decree.

**155. If the judgment-debtor has given security**

*Process against surety for his appearance, and is on failure to deliver judgment-debtor into custody.* not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

**156. (a). A writ of execution may be issued**

*Process of execution against person or property, but not both.* against either the person or the property of a judgment-debtor;

but process shall not be issued simultaneously against both person and property.

**(b). Such writ may be issued on the oral application of the judgment-creditor.**

*Applications on which it may issue.* or his agent, made at the time the decree is passed, or, thereafter, upon the written application of the judgment-creditor or his agent.

**(c). Writ of execution against the person or moveable property of a debtor shall be in the form**

*Form of writ of execution.* (H) or (I) contained in the first schedule hereto annexed, or to the like effect.

**157. Any moveable property required to be seized under an execution**

*Execution against moveable property.* shall, if practicable, be described in a list to be furnished by the judgment-creditor;

but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects, to the amount of the judgment and costs.

In either case, the property to be seized shall be pointed out to the officer entrusted with execution of the process, by the creditor or his agent:

Provided that no implements of husbandry, or

*Articles exempted from attachment.* cattle actually employed in agriculture, or tools of artisans, or necessary wearing apparel of the judgment-debtor, his wife or children, shall be attached under this section.

**158. Every writ of execution shall bear date on**

*Date and duration of writs.* the day on which it is signed by the Collector of the District or Assistant Collector,

and shall continue in force for such period as he may direct (not being more than sixty days) calculated from such date.

**159. Second and successive writs of execution**

*Second and successive writs.* may be issued by order of the Collector of the District or Assistant Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

**160. Process of execution shall not be issued**

*After one year execution not to issue without notice to party concerned.* upon any judgment, without previous notice to the party against whom execution is applied for, if, when appli-

cation for the issue of the process is made, a period of more than one year has elapsed from the date of the judgment, or from the date of the last previous application for execution.

**161. Execution on a judgment shall not issue**

*Execution not to issue against heir or representative of deceased party without notice.* against the heir or other representative of a deceased party, unless notice to appear and be heard has been previously served on such heir or other representative.

**162. No process of execution shall be issued on**

*No process of execution after three years, unless judgment be for sum exceeding 500 rupees.* a judgment under this Act, when the application for the issue of such process is made after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees;

in which case the period within which execution

*Regulation of period in such case.* may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the civil Court.

**163. If a writ issues for taking any person in**

*Procedure in execution of writ against person.* execution, the officer charged with the execution of the writ shall bring him with all convenient speed before the Collector of the District or Assistant Collector.

If such person does not then deposit in Court the full amount specified in the writ,

or make such arrangement for the payment of the same as is satisfactory to the judgment-creditor,

or satisfy the Collector of the District or Assistant Collector that he has no present means of paying the same amount,

the Collector of the District or Assistant Collector shall send him to the civil jail, there to remain for such time as may be directed by a warrant addressed to the keeper of the jail, unless in the meanwhile he pays the full amount for the payment of which he is liable under the decree:

Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three months

*Limit of imprisonment.* when the amount decreed (exclusive of costs) does not exceed fifty rupees,

or six months when such amount does not exceed five hundred rupees,

or two years in any other case.

**164. (a.) Any person once discharged from jail**

*No person to be imprisoned a second time under same judgment.* shall not be imprisoned a second time under the same judgment.

**(b.) If the amount due under the decree does not exceed one hundred rupees,**

*When further liability extinguished.* the Collector of the District or Assistant Collector may declare him absolved from further liability under that decree, and such liability shall thereupon be extinguished.

**(c.) In other cases the discharge shall not extin-**

*When not extinguished.* guish the liability of the discharged person under the decree, or exempt any property belonging to him from attachment in execution of the same.

**165.** Every person applying for the issue of a warrant of arrest under section 119, or suing out process of execution against the person of any judgment-debtor, shall deposit in Court, when the warrant issues, diet-money for thirty days at such rate not exceeding two annas per diem, as the Collector of the District or Assistant Collector may direct, unless for any special reason he directs that deposit be made at a higher rate, which shall not exceed four annas per diem.

**166.** Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

**167.** All diet-money spent in providing subsistence for any prisoner costs in suit. shall be added to the costs in the suit,

and any diet-money not so spent shall be returned to the person who deposited the same.

**168.** In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation, specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be sent to the Collector of the District or Assistant Collector, and shall be affixed in his office.

**169.** No moveable property taken in execution under this Act shall be sold before the expiration of ten days next after the day on which such property is so taken.

Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the officer executing the writ.

The provisions of sections 74 to 78 (both inclusive), so far as the same are applicable, shall apply to sales under this section.

**170.** No irregularity in publishing or conducting a sale of any moveable property under an execution shall vitiate such sale.

But any person injured by such irregularity may recover compensation for such injury by suit in the civil Court:

Provided that such suit be brought within one year from the date of sale.

**171.** In the execution of any decree for the payment of arrears of rent or revenue, or of money, under this Act, if satisfaction of the judgment cannot be obtained by execution against

the person or moveable property of the debtor, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor, except the materials of buildings actually occupied by a debtor who is an agriculturist.

**172.** If the immoveable property against which execution is applied for be other than a mahál, or share of a mahál, process shall be issued in the same manner as for the attachment and sale of moveable property: and the provisions of sections 168, 169 and 170 shall be applicable.

In the event of the sale of such property being completed, possession thereof shall be given to the auction-purchaser by the Collector of the District in which such property is situate.

**173.** When such property is a mahál, or a share of a mahál, the decree shall be sent for execution to the Collector of the District in which such property is situate,

and if the judgment-debtor satisfies the Collector of the District that there is reasonable ground to believe that the amount of the judgment-debt may be raised by mortgage of the property, or by letting it on lease, or by disposing by private sale of a portion of the property or any other property belonging to the judgment-debtor, the Collector of the District may, on the application of the judgment-debtor, postpone the sale for such period as the Collector of the District thinks proper to enable the judgment-debtor to raise the amount,

and if the judgment-debtor satisfies his creditor, the execution shall be stayed, and the Collector of the District shall report the fact to the Court by which the decree was made.

**174.** If the judgment-debtor obtaining a postponement of the sale fails to satisfy his creditor within the period so fixed, or, if the judgment-debtor does not apply for, or applies for but does not obtain, a postponement of the sale, and the Collector of the District considers that the sale of the mahál or share is inexpedient, and that satisfaction of the decree may be made by means of a temporary alienation of the property,

the Collector of the District shall cause an accurate rent-roll of the property to be prepared, and ascertain the annual income derivable therefrom.

If, in the opinion of the Collector of the District, such income is sufficient to pay off the judgment-debt with interest at six per cent. per annum, within any period not exceeding fifteen years from the date of the decree, he may transfer the property to the judgment-creditor, or if the judgment-creditor refuse to

take it, to some other person, or he may hold it under his own management, for such period not exceeding fifteen years, as may be sufficient for the recovery of the debt with interest as aforesaid, and on such conditions as to the payment of such debt and interest as he deems expedient.

Orders passed under this section and section 173 shall be subject to revision by the Commissioner of the Division and the Board, but shall not be open to appeal to the civil Court.

**174A.** When the property of a judgment-debtor Proprietor to be treated which is transferred or held ed as ex-proprietary ten under management under section 174 includes any sir- land of such debtor, he shall, until such property is restored to him, be treated as an ex-proprietary tenant of such sir-land under section 7.

**175.** If in the opinion of the Collector of Report of case to the District the recovery Board. of the debt under section 174 is impossible, or if the sale of the property appear to him advisable on other grounds, he shall report, through the Commissioner of the Division, the case for orders to the Board.

**176.** On the receipt of such report, the Board Procedure on receipt may make, or cause to be of report. made, such further endeavours for the recovery of the debt under the provisions of section 174, as to it may seem practicable.

**177.** If it appear to the Board that the debt Power to order sale of cannot be recovered under property. section 174, or if the sale of the property appear to it advisable on other grounds, it shall order the property to be sold, in which case the sale shall be made under the rules in force for the sale of land for arrears of land-revenue, but without prejudice to the incumbrances (if any) to which such property may be subject.

**178.** If, before the day fixed for any sale of any Examination of third party claiming interest in property. property under this Act, a third party appear before the Collector of the District or Assistant Collector, and claim a right or interest to or in any of the property, he shall examine such party or his agent, according to the law for the time being in force relative to the examination of witnesses,

Stay of sale. and, if he see sufficient reason for so doing, may stay the sale of such property.

**179.** The Collector of the District or Assistant Adjudication of such claims. Collector may adjudicate upon such claim, and make such order as he thinks fit between the claimant and the plaintiff and defendant in the original suit.

In trying such claim, the Collector of the District or Assistant Collector shall be guided by the rules contained in this Act, so far as they may be applicable.

**180.** If the claimant fail to establish his right Compensation awardable against claimant failing to establish right. to the property taken in execution, the Collector of the District or Assistant Collector may, at the time of disposing of the case, order him to pay to the judgment-creditor the costs of the proceedings on the claim, and also such sum as the Collector or Assistant Collector thinks sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

**181. (a.)** No appeal shall lie from any order passed under section 179 or section 180 by the Collector of the District.

**(b.)** But the party against whom the same is passed may institute a suit in the Civil Court to establish his right at any time within one year from the date of the order:

**(c.)** Provided that, if the order be for the sale of the property taken in execution, and the property is moveable the suit shall not be for the recovery of such property, but shall be for compensation from the judgment-creditor by whom it was brought to sale.

## CHAPTER VIII.

### APPEAL, REHEARING AND REVIEW.

#### (A).—From Decrees in Suits.

**182.** In suits under this Act, tried and decided Judgment of Collector by a Collector of a District of District or Assistant or an Assistant Collector of Collector of first class the first class, his judgment when final, shall be final.

**183.** All decisions of the Assistant Collector of the second class in suits mentioned in section 93 shall be Appeal from decision of Assistant Collector of second class. appealable to the Collector of the District, whose order thereon shall be final.

**184.** The petition of appeal shall be presented Time for presentation. to the Collector of the District within thirty days from the date of the decree.

**185.** The Collector of the District may either Procedure on appeal. dismiss the petition or may fix a day for hearing the appeal, and in that case he shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summonses.

If, on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal may be dismissed for default.

If the appellant appears and the respondent does not appear in person or by an agent, the appeal may be heard *ex parte*.

**186.** If an appeal be dismissed for default of Re-admission of ap- prosecution, the appellant peal. may, within fifteen days from the date of the dismissal, apply to the Collector of the District to re-admit the appeal,

and if it be proved to the satisfaction of the Collector of the District that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector of the District may re-admit the appeal.

**187.** After hearing the appeal, the Collector of Judgment in appeal. the District shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits.

**188.** In suits in which the judgment of the Collector of the District or Assistant Collector is final, as provided in section 182, he may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case, which the applicant had no knowledge of, or could not produce, at the time of trial.

**189.** Notwithstanding anything contained in sections 182 and 183 an appeal to District Judge shall lie to the District Judge from the decision of the Collector of the District or Assistant Collector of the first class, in all suits mentioned in section 93,

in which the amount or value of the subject-matter exceeds one hundred rupees, or in which the proprietary title to land has been determined between parties making conflicting claims thereto:

Provided that, where the amount or value of the subject-matter of the suits exceeds five thousand rupees, the appeal shall lie to the High Court.

**190.** The rules for the time being in force in regard to the time within presentation, &c., to which appeals from the decisions of civil Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the District Judge or High Court under this Act.

**191.** The decisions of District Judges passed in regular appeal under this Act shall be open to special appeal to the High Court, in the same manner, and subject to the same rules, as the decisions of District Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure and the Indian Limitation Act, 1877.

(B).—From Orders on Applications or relating to the Execution of Decrees.

(1) Assistant Collectors of the Second Class.

**192.** An appeal to the Collector of the District shall lie from all orders passed under this Act by an Assistant Collector of the second class.

(2) Assistant Collectors of the First Class.

**193.** An appeal to the Commissioner of the Division shall lie from all orders passed by an Assistant Collector of the first class on certain applications.

(a) on applications under section 99, where the amount or value of the subject-matter exceeds one hundred rupees,  
(b) on applications under section 100.

**194.** An appeal to the Collector of the District shall lie from all other orders passed under this Act by an Assistant Collector of the first class, except—  
(a) orders on applications mentioned in section 98;

(b) orders on applications mentioned in section 99;

(c) orders passed in the course of a suit and relating to the trial thereof.

**195.** The orders of an Assistant Collector of the first class on the following applications shall be final, subject to revision by the Commissioner of the Division or the Board—

(a) applications mentioned in section 98;  
(b) applications mentioned in section 99 where the amount or value of the subject-matter does not exceed one hundred rupees.

(3) Collector of the District.

**196.** An appeal to the Commissioner of the Division shall lie from orders of Collector of the District, passed by the Collector of the District,

(a) under section 99, when the amount or value of the subject-matter exceeds one hundred rupees,  
(b) under section 100.

In all other cases orders under this Act passed by the Collector of the District shall be final, subject to revision by the Commissioner of the Division or the Board.

(4) Commissioner of the Division.

**197.** Save as provided by section 198, the orders of the Commissioner of the Division on appeals shall be final, subject to revision by the Board.

**198.** An appeal from the decisions of the Commissioner of Division on appeals against orders passed by the Collector of the District or Assistant Collector on the applications mentioned in section 100.

Appeal to Board from his decisions on appeals against orders on applications mentioned in section 100 shall lie to the Board, except where the Commissioner of the Division dismisses the appeal.

In such case the provisions of section 199 shall apply.

**199.** The Board may at any time call for any power of Board to call for cases and pass orders thereon, which has come before any Commissioner of a Division, or any Court subordinate to him, and pass such orders thereon, consistent with this Act, as the Board thinks fit.

**200.** No appeal shall be brought to the Collector of the District after the expiration of thirty days, or to the Commissioner of the Division after the expiration of sixty days, or to the Board of Revenue after ninety days, from the date of the order complained of.

**201.** Any appeal under this Act may be admitted after the period of limitation prescribed therefor when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order under this section admitting an appeal.

## (5) Review.

**201A.** The Board may review and may rescind, alter or confirm any order made by itself, or by a single member, on the application of one of the parties to the case, if preferred within ninety days from the passing of the order.

**201B.** In the case of any application in which the order of the Commissioner, Collector of the District or Assistant Collector is final, as provided in sections 195, 196 and 197, such Commissioner, Collector or Assistant Collector, as the case may be, may, upon the petition of either party, if presented within thirty days from the date of the decision, review his order upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of or could not produce at the time of trial.

## CHAPTER IX.

## MISCELLANEOUS.

**202.** In computing the period of limitation prescribed for any suit under this Act, the day on which the right to sue accrued shall be excluded.

In computing the period of limitation prescribed for any appeal under this Act, the day on which the judgment or order complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.

**203.** Whenever a Court is closed on the last day of any period provided in this Act for the presentation of any memorandum of appeal, or for the deposit or payment of any money in or into court, the day on which the Court re-opens shall be deemed to be such last day.

**204. (a.)** If in any suit instituted, or on any application made, under this Act, it appears to the presiding officer that any question in issue involving a point of law is more proper for the decision of a civil Court, such officer, if a Collector of a District, or the Collector of the District on the representation of such officer, may cause a case to be stated for the opinion of the District Judge, who shall hear the case in such manner as nearly as may be as is prescribed for the hearing of cases by the High Court by section 619 of the Code of Civil Procedure.

(b.) If the District Judge finds that the case is insufficiently stated, he may return it to the Collector of the District for amendment.

(c.) Subject to any limits of value or time provided by law for cases falling under the Code of Civil Procedure, an appeal shall lie from the judgment of the District Judge to the High Court.

(d.) The District Judge shall return the case with the opinion of the civil Court to the Collector of the District, and the revenue Courts shall decide the suit or application in accordance with such opinion.

(e.) The costs attending such case shall be dealt with as costs in the suit or on the application in the revenue Court.

**205. (a.)** If in any suit instituted, or on any application presented, in a civil or Court questions as to jurisdiction, or presiding officer doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court.

(b.) On any such reference being made, the High Court may order the Judge or presiding officer, either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit or appeal.

(c.) The order of the High Court on any such reference shall be final, and shall not be questioned by the same parties in the same suit.

**206.** In all suits instituted in any civil or revenue Court, in which an appeal lies to the District Judge or High Court, an objection that the suit was instituted in the wrong Court shall not be entertained by the appellate Court, unless such objection was taken in the Court of first instance; but the appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court.

**207.** If in any such suit such objection was taken in the Court of first instance, but the appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

**208.** If in any such suit the appellate Court has not before it the materials necessary for the determination of the suit, it shall proceed under the provisions of the Code of Civil Procedure relating to appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken by the Court of first instance, it may direct its order either to the Court in which the suit was instituted, or to any other Court competent to entertain the suit,

and the objection that the order of a subordinate appellate Court has been directed to a Court which was not competent to entertain the suit shall not be taken on special appeal.

**208A.** If, in any suit or application pending before a Revenue Court exercising original, appellate or revisional jurisdiction under this Act, it appears to such Court that any question in issue is more proper for decision by a civil Court, such Revenue Court may, by order in writing, require any party to such suit or application to institute, within such time as it may appoint in this behalf, a suit in the civil Court with a view to obtaining a decision of such question; and, if he fails to comply with such requisition, shall decide such question against him.

If he institutes such suit, the Revenue Court shall dispose of the suit or application pending before it in accordance with the final decision of the civil Court of first instance or appeal (as the case may be) upon such question.

**209. In any suit brought by a co-sharer against**  
 Suits by co-sharer a lambardar for a share of the  
 against lambardar for profits, the Court may award  
 share of profits. to the plaintiff not only a  
 share of the profits actually collected, but also a  
 sum equal to the plaintiff's share in the profits  
 which, through gross negligence or misconduct,  
 the lambardar has omitted to collect.

**210. In any application made by a tenant**  
 Tenant's power to im- against a landholder to re-  
 plead persons claiming cover possession of a holding,  
 through landholder. the plaintiff may join as a  
 defendant any other person in possession of the  
 holding, who may claim title through the land-  
 holder.

In any suit instituted, or application made, by  
 Landholder's power to a landholder to eject a ten-  
 tient, the plaintiff may join  
 through tenant. as a defendant any other  
 person in possession of the holding, who may  
 claim title through the tenant.

**211. The Local Govern-**  
 Power of Local Gov- ment may from time to time  
 ernment to make rules. make rules consistent with  
 this Act—

- (a) for the guidance of officers in determining, under sections 13, 14, 15, 17, 18 and 20, the rent payable by tenants;
- (b) for the guidance of officers assessing rent under section 30;
- (c) as to the dates on which instalments of rent shall fall due;
- (d) as to the procedure to be followed on all applications under section 95.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

The Board, with the previous sanction of the Local Government, may from time to time make rules, consistent with the provisions herein contained, for the guidance of all persons in matters connected with the enforcement of this Act.

**212. When the Local Government has made a**  
 Instalments when to rule fixing the date on which  
 be deemed in arrear. any instalment of rent shall  
 fall due, no such instalment shall, for the purposes of this Act, be deemed to be in arrear unless it remains unpaid after the date fixed by such rule.

#### THE FIRST SCHEDULE.

##### FORM A. (See Section 51.)

I, A. B., of , solemnly declare that I did personally [or by my agent C. D.], on the day of , tender payment to E. F. of the sum of Rs. as and for the whole amount due from me on account of rent from the month of to the month of both inclusive. I further declare that the said E. F. refused to accept the sum so tendered, and to give a receipt in full for the

same, and I declare that, to the best of my belief, the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount I owe the said E. F., and I hereby apply for leave to pay the same accordingly.

##### FORM B. (See Section 52.)

Court of the Collector of , dated the day of  
 To E. F. &c.

With reference to the written declaration of A. B., you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you, or to your duly authorized agent, on application.

[This is to be written on a copy of the declaration in Form A made by the person paying the money into Court.]

##### FORM C. (See Section 69.)

##### FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of Commissioner for sale of  
 distressed property.

A. B., Distrainer.

[Name, description and address of the owner of the property.]

WHEREAS the said A. B. has applied to have the distressed property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required, either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 188 .

##### FORM D. (See Section 114.)

##### FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

[Name, description and address of plaintiff.]

C. D., Defendant.

[Name, description and address of Defendant.]

WHEREAS the said A. B. has brought a claim against you in this Court for , you are hereby required to appear in person in this Court on the day of [if not specially required to appear in person, state, "in person, or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your

defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

**FORM E. (See section 119.)**  
**FORM OF WARRANT OF ARREST.**

No. (of suit) dated

In the Court of

*A. B., Plaintiff.  
C. D., Defendant.*

To the Názir of the Court of the Collector of

WHEREAS the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 188 .

**FORM F. (See section 119.)**

**FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.**

In the Court of

*A. B., Plaintiff.*

[Name, description and address of plaintiff.]

*C. D., Defendant.*

[Name, description and address of defendant.]

WHEREAS the said A. B. has brought a claim against you in this Court for (here specify particulars of claim as given in the plaint) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

**FORM G. (See section 121.)**

**FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.**

WHEREAS A. B., plaintiff, has instituted a suit in the Court of the Collector of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is pending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.

**FORM H. (See section 156.)**  
**WRIT OF EXECUTION AGAINST THE PERSON.**

*A. B., Plaintiff.  
C. D., Defendant.*

To the Názir of the Court of the Collector of  
WHEREAS the said C. D. was directed by a decree of this Court, under date the day of 188 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court to be dealt with according to law.

**FORM I. (See section 156.)**  
**WRIT OF EXECUTION AGAINST THE EFFECTS.**

*A. B., Plaintiff.  
C. D., Defendant.*

To the Názir of the Court of the Collector of  
WHEREAS C. D. was directed by a decree of this Court, under date the day of 188 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed and) [if no list is furnished, these words to be omitted] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D., on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

**THE SECOND SCHEDULE.**

(See section 1.)

**TERRITORIES EXEMPTED, IN THE FIRST INSTANCE, FROM THE OPERATION OF THE ACT.**

- I. The province of Kumaon and Garhwál.
- II. The Tarni Parganas, comprising—Bázpur, Káshípur, Jaspúr, Rudarpúr, Gadarpúr, Kilpúri, Nának-Mattha, and Bilheri.
- III. The portion of the Mirzápúr District lying to the South of the Kaimor Range.
- IV. The Family Domains of the Mahárájá of Benares comprising the following parganas:—  
Bhadohi and Kera Mangror in the Mirzapur District,  
Kaswár Rájá in the Benares District.
- V. The tract of country known as Jaunsar Bawar in the Dehra Dún District.

**D. FITZPATRICK,**  
*Secretary to the Government of India.*

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th March, 1881, and is hereby promulgated for general information :—

## ACT NO. XIII OF 1881.

*An Act to provide for the better government of Fort William.*

WHEREAS it is expedient to give power to make rules for the better government of Fort William in Bengal and to provide for the establishment of a Court within the said Fort for the trial of persons charged with breaches of such rules; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Fort William Act, 1881;"

Commencement.

and it shall come into force on the first day of April, 1881.

But nothing herein contained shall be deemed to confer jurisdiction over any persons (other than artificers, labourers, sutlers and followers) to whom the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, 1869, is or are applicable.

2. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, define, for the purposes of this Act, the limits of Fort William in Bengal; and in this Act the expression "the Fort" means the area so defined.

3. The Commander-in-Chief in India may, from time to time, with the sanction of the Governor General in Council, make rules, to be in force within the Fort, in regard to the matters specified in the schedule hereto annexed, and other matters of a like nature, and may by such rules prescribe, as penalties for the infringement thereof, fine which may extend to fifty rupees, or imprisonment for a term which may extend to four days, or both.

When a sentence of fine is passed under any such rule, the term for which the Court directs the offender to be imprisoned in default of payment of such fine may extend to, and shall not exceed, four days.

When any rule is made under this section, a copy thereof, in English and such other languages

as the Governor General in Council may from time to time direct, shall be exhibited in such conspicuous places within the Fort as the officer commanding the Fort may from time to time direct.

4. The Governor General in Council may invest Governor General in any commissioned officer in Council may invest officer with power to try Her Majesty's Army with power to try persons charged with any infringement of the rules made under section three.

The officer so invested is hereinafter called the Fort Magistrate.

5. In all cases under this Act, the Fort Magistrate shall, except as herein otherwise provided, exercise within the Fort the powers, and, as nearly as may be, follow the procedure, conferred on, and prescribed for, a Presidency Magistrate by the Presidency Magistrates Act, 1877; and, subject to the power conferred by the High Courts Criminal Procedure Act, 1875, section 147, every finding, sentence or order of such Magistrate under this Act shall be final.

6. Any Police-officer, or any other person empowered in this behalf by the Governor General in Council, by name or as a member of a specified class, may arrest without warrant any person who in his sight commits an offence punishable under this Act.

Every person so arrested shall be taken to the police-station within the Fort, and shall be detained there until he gives to the Police-officer in charge of such station a bond, with or without sureties, as such officer may require, for a sum not exceeding one hundred rupees, to appear before the Fort Magistrate at a time to be specified in such bond, or until he can be brought before such Magistrate.

7. Nothing in this Act or in any rule made hereunder shall affect the jurisdiction of the Magistrates appointed under the Presidency Magistrates Act, 1877, or shall prevent any person from being prosecuted under any other law for any offence punishable under this Act, or from being liable to any other punishment than is provided for such offence by this Act: Provided that no person shall be punished twice for the same offence.

8. No prosecution for any offence under this Act shall be commenced after the expiration of three months next after such offence has been committed.

9. All penalties heretofore imposed by the Garrison Quarter Master of the Fort for offences against Garrison Quarter Master, garrison rules and regulations shall be deemed to have been imposed in accordance with law.

#### THE SCHEDULE.

(See section 3.)

(1). Throwing dirt or rubbish of any description into the drains or roads or anywhere but in the appointed places.

(2). Removing night-soil without a covering or at unauthorized hours.

(3). Camp-followers, servants and others not keeping the godowns they live in clean.

(4). Performing offices of nature in other than the appointed places.

(5). Bathing, or washing clothes or animals, in the *cunette* or other unauthorized places.

(6). Selling unwholesome articles of food, grain or drinks.

(7). Adulterating food or drinks.

(8). Making evacuations in unauthorized places.

(9). Rash or negligent driving.

(10). Picketting, training or breaking in animals.

(11). Causing obstruction by vehicles on the road.

(12). Exposing or hawking articles for sale about the roads and barracks, or within the Fort, without a Fort pass.

(13). Beating drums or tom-toms.

(14). Damaging lamps, posts, masonry or other Government-property in any part of the Fort.

(15). Disorderly behaviour in the public thoroughfares.

(16). Gambling.

(17). Spitting pán on any of the public staircases, gateways, walls and verandahs, or defacing in any way the walls of barracks, buildings or gateways.

(18). Throwing slops into the drains.

(19). Washing cooking-pots at the water-taps and wasting water.

(20). Cooking in unauthorized places.

(21). Hanging clothes to dry on the guns or masonry-work.

(22). Laying out clothes, accoutrements or stable-bedding after the authorized hours.

(23). Destroying the trees, bushes or plants, or climbing trees.

(24). Servants smoking hookahs in their masters' quarters or cook-houses, or keeping such quarters or cook-houses in an insanitary state.

(25). Trespassing on parade-grounds, or making footpaths across the grass-plots.

(26). Being drunk and incapable.

(27). Fighting, quarrelling and creating a disturbance, or making unnecessary noise of any kind.

(28). Affixing bills and papers on any walls in the Fort.

(29). Cutting grass or interfering with the grass-contractor.

(30). Declining to show a tin pass when called upon to do so.

(31). Being found in the garrison without a tin pass, or being in possession of a ticket belonging to another.

(32). Driving vehicles without lights or with insufficiently greased wheels.

(33). Swinging or sitting on the chain-fences.

(34). Interfering in any way with the guns, carriages or piles of shot and shell on the works, or with the packed ordnance.

(35). Mounting the ramparts or parapets or entering the embrasures without authority.

(36). Smuggling liquor into the Fort.

(37). Burning stable-litter or lighting fires except in authorized places and at authorized hours.

(38). Carrying lights except in closed lanterns, or letting off fireworks.

(39). Removing property of any kind or description from the Fort without written authority.

(40). Allowing animals of any sort to stray into the Fort, or to graze within the same.

(41). Slaughtering animals or exposing carcasses or offal within the Fort.

(42). Keeping dogs or poultry in unauthorized places.

(43). Buying, selling or receiving any portion of a soldier's kit.

(44). Disobedience of lawful authority in failing to attend to authorized instructions of the police or of the several sentries posted throughout the Fort.

(45). Occupying buildings of any kind without proper allotment.

D. FITZPATRICK,  
Secretary to the Government of India.

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

(Third Publication.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th March, 1881, and is hereby promulgated for general information:—

## ACT NO. XIV OF 1881.

*An Act to amend Bengal Regulation VII of 1828.*

WHEREAS it is expedient to amend Bengal Regulation VII of 1828 (*for amending the Provisions of Regulation XV of 1795, and for defining the Authority of the Rajah of Benares in the Maháls therein referred to*) in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called “The Benares Family Domains Act, 1881”: And it shall come into force on such day as the Lieutenant-Governor of the North-Western Provinces may, by notification in the official Gazette, appoint in this behalf.

2. The following portions of Bengal Regulation VII of 1828 shall be repealed, namely:—

- (a) in section 5, the words and figures “under the rules contained in Regulation XLI, 1795”;
- (b) in section 14, the words “under the Regulations,” in both places in which they occur;
- (c) in section 19, the words “before the Court of circuit”;
- (d) in section 20, the proviso.

New section substit-  
ed for section 3 of same  
Regulation.

3. In the same Regulation, for section 3, the following shall be substituted, namely:—

“3. The superintendence of the said maháls shall be vested in the Commissioner of the Benares Division, hereinafter called ‘the Superintendent.’

“The Lieutenant-Governor of the North-Western Provinces may, from time to time, appoint a Deputy Superintendent of the said maháls, and confer upon him all or any of the powers of the Superintendent, to be exercised by him subject to the general control of the Superintendent.”

4. In the same Regulation, section 7, for the Amendment of same last twenty-two words, the Regulation, section 7, following shall be substituted, namely:—

“The orders thus passed by the Superintendent shall be subject to appeal to, and revision by, the Board of Revenue, whose order thereon shall be final, unless altered or set aside by the said Lieutenant-Governor.”

5. In the same Regulation, section 9, for the Amendment of same words “the Regulations at Regulation, section 9, present in force within the Province of Benares” the words “the enactments for the time being in force in the North-Western Provinces” shall be substituted, and after the word “applicable” the words “and the Local Government with the concurrence of the Mahárájá may direct” shall be inserted.

Clause added to sec-  
tion 10 of same Regula-  
tion.

6. To section 10 of the same Regulation the following clause shall be added, namely:—

“The Mahárájá may delegate to one or more of his officers the exercise of all or any of the powers vested in him under this section in the whole or any part of the said maháls.”

7. In the same Regulation, section 11, for the Amendment of same words and figures “Re-  
gulation XI, 1822,” the Regulation, section 11, words “the enactments for the time being in force in the North-Western Provinces” shall be substituted.

8. In the same Regulation, section 12, for the Amendment of same words “Boards of Revenue” Regulation, section 12, the words “Commissioners of Divisions and the Board of Revenue” shall be substituted; and, for the words “towards the Board” the words “towards the Commissioner” shall be substituted.

9. In the same Regulation, section 13, for the Amendment of same words “Governor Gen-  
eral in Council” the words “Board of Revenue” shall be substituted.

10. In the same Regulation, section 16, for the Amendment of, and addition to, same Regu-  
lation, section 16, the words “a Native Com-  
missioner shall be maintained by the Rajah in each of the pergunnahs referred to in Regulation XV, 1795,” the following shall be substituted, namely:—“A Native Commissioner, or two or three Native Commissioners, as the said Lieutenant-Governor may, from time to time, direct, shall be maintained by the Mahárájá.”

And to the same section the following shall be added, namely :—

"The local limits of the jurisdiction of the Native Commissioners shall be determined by the Mahárájá, and may be altered by him from time to time."

**11.** In the same Regulation, section 21, for the Amendment of some words and figures "contained Regulation, section 21, in Regulation XXIII of 1814" to the end of the section, the following shall be substituted, namely :—"prescribed by the said Lieutenant-Governor under section 22 of this Regulation."

**12.** For sections 22 to 26, both inclusive, of the Sections substituted same Regulation, the following sections shall be substituted, that is to say :—

"**22.** The said Lieutenant-Governor may, from time to time, make rules consistent with this Regulation—

"(a) to regulate the procedure and powers of the Native Commissioners, and to determine the cases in which, the mode in which, and the authority to or by which, the orders and decisions of such Commissioners shall be subject to appeal or revision, and

"(b) to regulate, in matters not hereinbefore provided for, the administration of the Family Domains in so far as it is entrusted to the Mahárájá;

"such rules shall, when published in the local Gazette, have the force of law :

"Provided that no such rule shall be so published until the opinion of the Mahárájá thereon has been taken and considered by the Lieutenant-Governor.

"In matters not otherwise provided for by the rules made under clause (a), the Code of Civil Procedure shall apply.

**23.** If, in any suit instituted or appeal presented under this Regulation in any Court, the Judge or presiding officer doubts whether he has jurisdiction, he may refer the matter to the Board of Revenue; and, on any such reference being made, the said Board may order the Judge or presiding officer either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit or appeal.

"The order of the said Board on any such reference shall be final.

**24.** Except as provided by or under this Regulation, or any other enactment for the time being in force,

"(a) the administration of the Family Domains, in so far as it is entrusted to the Mahárájá, shall be regulated by the principles and spirit of the enactments for the time being in force in the North-Western Provinces, and

"(b) the administration of the said Domains, in so far as it has not been so entrusted, shall be regulated by those enactments.

"**25.** In this Regulation, unless there is something repugnant in the subject or context,—

"'Board of Revenue' means the Board of Revenue of the North-Western Provinces, or such officer or officers as may hereafter be lawfully appointed to exercise, within the Province of Benares, the powers of such Board.

"'Regulations' includes Acts for the time being in force in the North-Western Provinces."

**13.** All orders heretofore passed by the Governor Validation of past or Lieutenant-Governor of the ders, &c. Lieutenant-Governor of the North-Western Provinces, or any other authority, regarding revisions of settlement or other matters connected with the revenue-administration of the tracts of territory mentioned in the preamble to Bengal Regulation VII of 1828, shall be deemed to have been passed in accordance with law; and no order or decision purporting to have been passed by any civil or revenue authority under the provisions of that Regulation shall be called in question in any Court.

**14.** In the Scheduled Districts Act, 1874, first schedule, Part IV, and in Parts of Acts XIV and XV of 1874 repealed, the Laws Local Extent Act, 1874, sixth schedule, Part IV, the following shall be repealed, that is to say :—

"V. The Family Domains of the Mahárájá of Benares comprising the following parganas :—

"Bhadoli and Kheyra Mángror in the Mirzapur District.

"Kaswá Rájá in the Benares District."

**15.** In the Laws Local Extent Act, 1874, section 8, after clause (j), the following shall be inserted, namely :—

"(jj) extend to Pargana Bhadoli or Pargana Kera Mangror in the Mirzapur District, or to Pargana Kaswár Rájá in the Benares District, any law not now in force therein."

D. FITZPATRICK,  
Secretary to the Government of India.

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 15th March, 1881, and is hereby promulgated for general information.—

## ACT NO. XV OF 1881.

## THE FACTORIES ACT, 1881.

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17. Occupier primarily liable for breaches of Act.

## Miscellaneous.

18. Power to make rules.
19. Crown factories.

*An Act to regulate labour in Factories.*

WHEREAS it is expedient to regulate labour in factories; It is hereby enacted as follows:—

## Preamble.

- Short title.** 1. This Act may be called "The Indian Factories Act, 1881."

**It applies to the whole of British India, and Local extent. shall come into force on the Commencement. first day of July, 1881.**

## Interpretation-clause.

"factory" means any premises (other than "factory") situated on, and used solely

for the purposes of, a tea or coffee plantation) wherein is carried on, for not less than four months in the whole in any one year, any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale, any article or part of an article; and

(a) wherein steam, water or other mechanical power is used in aid of any such process; and

(b) wherein not less than one hundred persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process; and

every part of a factory shall be deemed to be a factory, except any part used exclusively as a dwelling:

"child." "child" means a person under the age of twelve years:

"mill-gearing" includes every shaft, whether "mill-gearing" upright, oblique or horizontal, and every wheel, drum, pulley, rope, driving strap or band, by which the motion of the first moving power is communicated to any machine:

a child who works in a factory, whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein, shall be deemed to be employed therein within the meaning of this Act.

*Inspectors and certifying Surgeons.*

**3.** The Local Government may in its discretion, by notification in the official Gazette, appoint such persons as it thinks fit to be

Inspectors of factories within such local limits as it may assign to such Inspectors, and may suspend or dismiss any person so appointed.

In default of such appointment, the Magistrate of the district shall, in virtue of his office, be Inspector of all factories (if any) in the District.

Such Inspectors shall be deemed public servants within the meaning of the Indian Penal Code; and shall be officially subordinate to such authority as the Local Government may, from time to time, indicate in this behalf.

**4.** An Inspector of factories may, within the local limits for which he is appointed,

(a) enter, with such assistants (if any) as he thinks fit, any factory whenever he has reason to believe that any person is employed therein;

(b) make such examination of the premises and machinery, and of the registers hereinafter prescribed, and take on the spot or otherwise such evidence of any person as such Inspector may deem necessary for carrying out the provisions of this Act;

(c) order that any person shall not be employed in a factory when he has reason to believe that such employment would be in contravention of this Act—

until the age of such person has been certified, in the manner hereinafter provided, to be above seven years; or.

for more than the time allowed by this Act for the employment of children, until his age has been so certified to be above twelve years.

**5.** The Civil Surgeon or such other person practising medicine or surgery as the Local Government may, from time to time, appoint in this behalf for any local area (hereinafter called the certifying surgeon) shall, at the request of any person employed or desirous of being employed in a factory situate in such local area, or of the parent or guardian of such person, examine such person and grant him a certificate, stating whether his age, as nearly as it can be ascertained from such examination, is above or below seven years, or twelve years, as the case may be.

*Children.*

**Age of employment.** **6.** No child shall be employed in any factory, if he is under the age of seven years.

**Hours of employment for children.** **7.** No child shall be actually employed in any factory more than nine hours in any one day.

And no child shall be employed in any factory on any day without an interval, or intervals, amounting in the whole to at least an hour, being allowed to him for food and rest.

The times at which such intervals shall be allowed, and the length of each interval, shall be fixed by the Local Government for each factory,

after ascertaining, as far as possible, the existing practice in such factory and the wishes of the occupier thereof.

The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice, in English and the languages of the District in which the factory is situate, showing the times at which such intervals shall be allowed and the length of each interval.

A child shall not be deemed to be employed within the meaning of the first clause of this section during any interval allowed for food or rest.

**8.** Every occupier of a factory in which children

are employed shall, before Child to be allowed the beginning of each month, holidays fix not less than four days in such month on which no child shall be employed in such factory, and shall forthwith give notice of the days so fixed to such officer as the Local Government may, from time to time, appoint in this behalf.

An occupier of a factory may, with the previous sanction of the Inspector, substitute, for any day fixed under this section, another day in the same month.

No child shall be employed in such factory on a day fixed under this section, unless when another day has been substituted for such day as herein-before provided, in which event no child shall be employed in such factory on the day so substituted.

**9.** No occupier of a factory shall employ therein

Not to be employed on any day any child who in two factories on same has to his knowledge already been employed on the same day.

**10.** No occupier of a factory shall allow any child Not to be engaged in to clean any part of the mill-gearing or machinery of such factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel or other mechanical power, as the case may be.

**11.** The Local Government may direct any occ-

upier of a factory to keep, Register of children in such form and with such particulars as such Government may, from time to time, prescribe, registers of the children (if any) employed in such factory, and of their respective employments.

*Fencing.*

**12 (a).** Every fly-wheel directly connected with Fencing. a steam-engine, or water-

wheel or other mechanical power in any part of a factory, and every part of a steam-engine or water-wheel,

(b) every hoist or teagle near which any person is liable to pass or be employed, and

(c) every other part of the machinery or mill-gearing of a factory which may, in the opinion of the local Inspector, be dangerous if left unfenced, and which he may have ordered to be fenced,

shall, while the same is in motion, be kept by the occupier of such factory securely fenced.

Any order under clause (c) may be set aside, on appeal or otherwise, by the Local Government or such authority as it may appoint in this behalf.

*Notices.*

**13. When any accident occurs in a factory caus-**

*Notice to be given of accidents.* ing death or bodily injury whereby the person injured

is prevented from returning to his work in the factory during forty-eight hours after the occurrence of the accident, the occupier of such factory, or, in his absence, his principal agent in the management of such factory, shall send such notice of such accident to such authorities in such form and within such time as the Local Government may, from time to time, by rule, direct.

**14. Every person shall, within one month after he**

*Person beginning to occupy factory to give notice.* begins to occupy a factory, or carry on business therein, send to the local Inspector a written notice containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work performed in such factory, the nature and amount of the moving power therein, and the name of the person (if any) under whom the business of the factory is to be carried on.

*Penalties.*

*Penalties.* **15. Any person who, in breach of this Act, or of any order or rule made hereunder—**

(a) employs any child in any factory ;

(b) neglects to set up or maintain the notice required by section seven or to fix the days referred to in section eight ;

(c) allows any child to perform the work forbidden by, or to work in contravention of, section ten ;

(d) neglects to keep a register in manner prescribed under section eleven ;

(e) neglects to fence any machinery or mill-gearing in any factory ; or

(f) neglects to give any notice,

shall be punished with fine which may extend to two hundred rupees :

Provided that—

*1st.*, no prosecution under this section shall be instituted except by, or with the previous sanction of, the local Inspector ; and

*2nd.*, no person shall be liable under this

*Only one penalty for same kind of offence on one day.* section to more than one penalty for any one description of offence committed

on the same day, except where two or more child-

ren are employed contrary to the provisions of this Act, in which case one penalty may be imposed in respect of each child so employed.

**16. Where an act or omission would, if a per-**

*Burden of proof as to age.* son were under seven or twelve years of age, be an offence punishable under this Act, and such person is, in the opinion of the Court, apparently under such age, it shall lie on the accused to prove that such person is not under such age.

A declaration in writing by a certifying Sur-

*Certifying Surgeon's declaration in writing.* geon that he has personally examined a person employed in a factory, and believes him to be under or over the age set forth in such declaration, shall, for the purposes of this Act, be admissible as evidence of the age of that person.

**17. Every occupier of a factory shall**

*Occupier primarily liable for breaches of Act.* be deemed primarily liable for any breach therein of the provisions of this Act ; but he may discharge himself from such liability by

proof to the satisfaction of the local Inspector, before prosecution therefor, that such breach was committed by some other person without his knowledge or consent ; and the person committing such breach shall be liable therefor.

*Miscellaneous.*

**18. The Local Government may, from time to time, make rules consistent with this Act to provide for—**

(a) the fencing of machinery and mill-gearing in factories ;

(b) the inspection of factories ;

(c) the manner in which appeals under this Act shall be presented and heard ; and

(d) otherwise carrying out the provisions of this Act.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

**19. This Act shall apply to factories belonging to the Crown ; provided that,**

*in case of any public emergency,* the Governor General in Council, or the Local Government may, by an order in writing, exempt any such factory from this Act to such extent and during such period as the Governor General in Council or the Local Government, as the case may be, thinks fit.

D. FITZPATRICK,  
*Secretary to the Government of India.*

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 15th March, 1881, and is hereby promulgated for general information:—

## ACT No. XVI OF 1881.

*An Act to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.*

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways leading to ports in British India, and to prevent the creation of such obstructions; It is hereby enacted as follows:—

1. This Act may be called "The Obstructions in Fairways Act, 1881;" and it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty or by the Secretary of State for India in Council.

2. Whenever, in any fairway leading to any port in British India, any vessel is sunk, stranded or abandoned, or any fishing-stake, timber or other thing is placed or left, the Local Government of the part of British India in which such port is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

(a) cause such thing or any part thereof to be removed; or,

(b) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, cause the same or any part thereof to be destroyed.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be decided by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties; and such decision shall be final.

4. The Local Government shall, whenever any notice of removal to thing is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was so removed.

Things removed may, in certain cases, be sold. If after publishing such notification, such thing is unclaimed, or

if the person claiming the same fails to pay the amount due for the said expenses and any customs duties or other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

6. On realizing the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes the claim within one year from the date of the sale.

7. For the purposes of this Act, the term "vessel" shall be deemed to include tackle, cargo, &c. also every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

8. The Governor General in Council may from time to time, by notification in the Gazette of India, make rules to regulate or prohibit the placing of obstructions in fairways.

to a port in British India, the placing of fishing-stakes, the casting or

throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause, or be likely to cause, obstruction or danger to navigation.

**9. Whoever is guilty of any act or omission in contravention of the rules made under section eight, may be tried for such offence**

Penalty for breach of such rules.

in any district or Presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**10. Whenever the maintenance or creation of an obstruction in any fairway has become lawful by long usage or otherwise, and such obstruction is removed or destroyed under section two, or its creation is regulated or prohibited under section eight, any person having a right to maintain or create such obstruction shall be entitled to receive from the Secretary of State for India in Council reasonable compensation for any damage caused to him by such removal, destruction, regulation or prohibition.**

Compensation payable in certain cases for damage caused under this Act.

Every dispute arising concerning the right to such compensation, or the amount thereof,

shall be determined according to the law for the time being in force relating to like disputes in the case of land needed for public purposes and not otherwise; and for the purposes of such law the fairway from or in which such obstruction was removed or destroyed, or in which its creation was regulated or prohibited, shall be deemed to be a part of the Presidency-town or district in which the port to which such fairway leads is situate.

**11. Whenever any obstruction in a fairway leading to a port in British India has been removed or destroyed, or whenever the creation of any such obstruction has been regulated or prohibited, by an order of the Governor General in Council or a Local Government, previous to the passing of this Act, such removal, destruction, regulation or prohibition shall be deemed to have been effected under this Act.**

**12. Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf.**

Saving of other powers possessed by Government.

D. FITZPATRICK,  
*Secretary to the Government of India.*



# The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 2, 1881.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

[Third Publication.]  
The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 15th March, 1881, and is hereby promulgated for general information:—

ACT NO. XV OF 1881.

### THE FACTORIES ACT, 1881.

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14. Person beginning to occupy factory to give notice.

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- Certifying Surgeon's declaration in writing.
17. Occupier primarily liable for breaches of Act.

##### Miscellaneous.

18. Power to make rules.
19. Crown factories.

An Act to regulate labour in Factories.  
WHEREAS it is expedient to regulate labour in factories; It is hereby enacted as follows:—

##### Preamble.

1. This Act may be called "The Indian Factories Act, 1881." It applies to the whole of British India, and shall come into force on the first day of July, 1881.

##### Short title.

2. In this Act, unless there is something repugnant in the subject or context, "factory" means any premises (other than "factory") situated on, and used solely for the purposes of, a tea or coffee plantation) wherein is carried on, for not less than four months in the whole in any one year, any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale, any article or part of an article; and

(a) wherein steam, water or other mechanical power is used in aid of any such process; and

(b) wherein not less than one hundred persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process; and

every part of a factory shall be deemed to be a factory, except any part used exclusively as a dwelling:

##### "child."

"child" means a person under the age of twelve years:

"mill-gearing" includes every shaft, whether

"mill-gearing" upright, oblique or horizontal, and every wheel, drum,

pulley, rope, driving strap or band, by which the motion of the first moving power is communicated to any machine:

a child who works in a factory, whether for wages or not, either in a manufacturing process or

handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein, shall be deemed to be employed therein within the meaning of this Act.

*Inspectors and certifying Surgeons.*

**3. The Local Government may in its discretion, by notification in the official Gazette, appoint such persons as it thinks fit to be**

**Inspectors of factories within such local limits as it may assign to such Inspectors, and may suspend or dismiss any person so appointed.**

In default of such appointment, the Magistrate of the district shall, in virtue of his office, be Inspector of all factories (if any) in the District.

Such Inspectors shall be deemed public servants within the meaning of the Indian Penal Code; and shall be officially subordinate to such authority as the Local Government may, from time to time, indicate in this behalf.

**4. An Inspector of factories may, within the local limits for which he is appointed,**

(a) enter, with such assistants (if any) as he thinks fit, any factory whenever he has reason to believe that any person is employed therein;

(b) make such examination of the premises and machinery, and of the registers hereinafter prescribed, and take on the spot or otherwise such evidence of any person as such Inspector may deem necessary for carrying out the provisions of this Act;

(c) order that any person shall not be employed in a factory when he has reason to believe that such employment would be in contravention of this Act—

until the age of such person has been certified, in the manner hereinafter provided, to be above seven years; or,

for more than the time allowed by this Act for the employment of children, until his age has been so certified to be above twelve years.

**5. The Civil Surgeon or such other person**

**Certifying surgeon.** practising medicine or surgery as the Local Government may, from time to time, appoint in this behalf for any local area (hereinafter called the certifying surgeon) shall, at the request of any person employed or desirous of being employed in a factory situate in such local area, or of the parent or guardian of such person, examine such person and grant him a certificate, stating whether his age, as nearly as it can be ascertained from such examination, is above or below seven years, or twelve years, as the case may be.

*Children.*

**Age of employment.** No child shall be employed in any factory, if he is under the age of seven years.

**Hours of employment for children.** No child shall be continually employed in any factory more than nine hours in any one day.

And no child shall be employed in any factory on any day without an interval, or intervals, amounting in the whole to at least an hour, being allowed to him for food and rest.

The times at which such intervals shall be allowed, and the length of each interval, shall be fixed by the Local Government for each factory

after ascertaining, as far as possible, the existing practice in such factory and the wishes of the occupier thereof.

The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice, in English and the languages of the District in which the factory is situate, showing the times at which such intervals shall be allowed and the length of each interval.

A child shall not be deemed to be employed within the meaning of the first clause of this section during any interval allowed for food or rest.

**8. Every occupier of a factory in which children**

**Child to be allowed** are employed shall, before

**holidays.** the beginning of each month, fix not less than four days in such month on which no child shall be employed in such factory, and shall forthwith give notice of the days so fixed to such officer as the Local Government may, from time to time, appoint in this behalf.

An occupier of a factory may, with the previous sanction of the Inspector, substitute, for any day fixed under this section, another day in the same month.

No child shall be employed in such factory on a day fixed under this section, unless when another day has been substituted for such day as hereinbefore provided, in which event no child shall be employed in such factory on the day so substituted.

**9. No occupier of a factory shall employ therein**

**Not to be employed** on any day any child who has to his knowledge already been employed on the same day in any other factory.

**10. No occupier of a factory shall allow any child**

**Not to be engaged in** to clean any part of the mill-gearing or machinery of such factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel or other mechanical power, as the case may be.

**11. The Local Government may direct any occ-**

**Register of children** upier of a factory to keep, in such form and with such particulars as such Government may, from time to time, prescribe, registers of the children (if any) employed in such factory, and of their respective employments.

*Fencing.*

**12 (a). Every fly-wheel directly connected with**

**Fencing.** a steam-engine, or water-wheel or other mechanical power in any part of a factory, and every part of a steam-engine or water-wheel,

(b) every hoist or teagle near which any person is liable to pass or be employed, and

(c) every other part of the machinery or mill-gearing of a factory which may, in the opinion of the local Inspector, be dangerous if left unfenced, and which he may have ordered to be fenced,

shall, while the same is in motion, be kept by the occupier of such factory securely fenced.

Any order under clause (e) may be set aside, on appeal or otherwise, by the Local Government or such authority as it may appoint in this behalf.

#### Notices.

**13. When any accident occurs in a factory causing death or bodily injury whereby the person injured**

*Notice to be given of accidents.*  
is prevented from returning to his work in the factory during forty-eight hours after the occurrence of the accident, the occupier of such factory, or, in his absence, his principal agent in the management of such factory, shall send such notice of such accident to such authorities in such form and within such time as the Local Government may, from time to time, by rule, direct.

**14. Every person shall, within one month after he**

*Person beginning to occupy factory to give notice.*  
begins to occupy a factory, send to the local Inspector a written notice containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed; the nature of the work performed in such factory, the nature and amount of the moving power therein, and the name of the person (if any) under whom the business of the factory is to be carried on.

#### Penalties.

**15. Any person who, in breach of this Act, or of any order or rule made hereunder—**

- (a) employs any child in any factory;
- (b) neglects to set up or maintain the notice required by section seven or to fix the days referred to in section eight;
- (c) allows any child to perform the work forbidden by, or to work in contravention of, section ten;
- (d) neglects to keep a register in manner prescribed under section eleven;
- (e) neglects to fence any machinery or mill-gearing in any factory; or
- (f) neglects to give any notice,

shall be punished with fine which may extend to two hundred rupees:

Provided that—

*1st,* no prosecution under this section shall be instituted except by, or with the previous sanction of, the local Inspector; and

*2nd,* no person shall be liable under this section to more than one penalty for any one description of offence committed on the same day, except where two or more child-

ren are employed contrary to the provisions of this Act, in which case one penalty may be imposed in respect of each child so employed.

**16. Where an act or omission would, if a person were under seven or twelve years of age, be an offence punishable under this Act, and such person is, in the opinion of the Court, apparently under such age, it shall lie on the accused to prove that such person is not under such age.**

A declaration in writing by a certifying Surgeon that he has personally examined a person employed in a factory, and believes him to be under or over the age set forth in such declaration, shall, for the purposes of this Act, be admissible as evidence of the age of that person.

**17. Every occupier of a factory shall be deemed primarily liable for any breach therein of the provisions of this Act; but he may discharge himself from such liability by proof to the satisfaction of the local Inspector, before prosecution therefor, that such breach was committed by some other person without his knowledge or consent; and the person committing such breach shall be liable therefor.**

#### Miscellaneous.

**18. The Local Government may, from time to time, make rules consistent with this Act to provide for—**

- (a) the fencing of machinery and mill-gearing in factories;
- (b) the inspection of factories;
- (c) the manner in which appeals under this Act shall be presented and heard; and
- (d) otherwise carrying out the provisions of this Act.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

**19. This Act shall apply to factories belonging to the Crown; provided that, in case of any public emergency, the Governor General in Council or the Local Government may, by an order in writing, exempt any such factory from this Act to such extent and during such period as the Governor General in Council or the Local Government, as the case may be, thinks fit.**

D. FITZPATRICK,  
*Secretary to the Government of India.*

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

(Third Publication.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 15th March, 1881, and is hereby promulgated for general information :—

## ACT NO. XVI OF 1881.

*An Act to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.*

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in

*Preamble.* fairways leading to ports in British India, and to prevent the creation of such obstructions; It is hereby enacted as follows :—

1. This Act may be called "The Obstructions in Short title. Fairways Act, 1881;" and Commencement. it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty or by the Secretary of State for India in Council.

2. Whenever, in any fairway leading to any port in British India, any vessel is sunk, stranded or abandoned, or any fishing-stake, timber or other thing is placed or left, the Local Government of the part of British India in which such port is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

(a) cause such thing or any part thereof to be removed ; or,

(b) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, cause the same or any part thereof to be destroyed.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect

Any dispute arising concerning the amount due under this section, in respect Dispute concerning of anything so removed, shall be decided by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties; and such decision shall be final.

4. The Local Government shall, whenever any notice of removal to thing is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was so removed.

5. If after publishing such notification, such thing is in certain cases, be sold, unclaimed, or if the person claiming the same to pay the amount due for the said expenses, customs duties or other charges payable by the Local Government in respect thereto, the Local Government may sell such public auction, if it is of a perishable nature, and if it is not of a perishable nature, not less than six months after publication of notification as aforesaid.

6. On realizing the proceeds of such sale, Proceeds how applied. amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes the claim within one year from the date of the sale.

7. For the purposes of this Act, the term "vessel" shall be deemed to include also every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

8. The Governor General in Council may from time to time, by notification in the Gazette of India, make rules to regulate or prohibit the placing of obstructions in fairways.

the placing of fishing-stakes, the casting or

throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause, or be likely to cause, obstruction or danger to navigation.

**9. Whoever is guilty of any act or omission in contravention of the rules made under section eight, may be tried for such offence**

Penalty for breach of such rules.  
in any district or Presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**10. Whenever the maintenance or creation of an obstruction in any fairway has become lawful by long usage or otherwise, and such obstruction is removed or destroyed under section two, or its creation is regulated or prohibited under section eight, any person having a right to maintain or create such obstruction shall be entitled to receive from the Secretary of State for India in Council reasonable compensation for any damage caused to him by such removal, destruction, regulation or prohibition.**

Compensation payable in certain cases for damage caused under this Act.  
Every dispute arising concerning the right to such compensation, or the amount thereof,

shall be determined according to the law for the time being in force relating to like disputes in the case of land needed for public purposes and not otherwise; and for the purposes of such law the fairway from or in which such obstruction was removed or destroyed, or in which its creation was regulated or prohibited, shall be deemed to be a part of the Presidency-town or district in which the port to which such fairway leads is situate.

**11. Whenever any obstruction in a fairway leading to a port in British India has been removed or destroyed, or whenever the creation of any such obstruction has been regulated or prohibited, by an order of the Governor General in Council or a Local Government, previous to the passing of this Act, such removal, destruction, regulation or prohibition shall be deemed to have been effected under this Act.**

**12. Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf.**

D. FITZPATRICK,  
*Secretary to the Government of India.*



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SIMLA, SATURDAY MAY 28, 1881.

**Separate paging is given to this Part in order that it may be filed as a separate compilation.**

## PART IV.

### Acts of the Governor General's Council assented to by the Governor General.

#### GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 25th May, 1881, and is hereby promulgated for general information:—

#### Act No. XVII of 1881.

*An Act to give effect to the Convention between the Governors General of British India and Portuguese India regarding their respective systems of moneys, weights and measures.*

WHEREAS by the fifth article of a Treaty of Commerce and Extradition executed at Lisbon on the twenty-sixth day of December, 1878, and ratified on the sixth day of August, 1879, between His Most Faithful Majesty the King of Portugal and the Algarves and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, it was provided that the High Contracting Parties should use their best endeavours to establish between their respective systems of moneys, weights and measures the harmony desirable for the development of commercial relations between their respective dominions:

And whereas by the same article it was further provided that the detailed measures to be adopted should form the subject of a separate Convention between the Governors General of British India and Portuguese India, to be executed within two years from the date when the said Treaty came into force:

And whereas the said Treaty came into force on the fifteenth day of January, 1880:

And whereas, in pursuance of the said recited article, the Convention set forth in the schedule hereto annexed has been made:

It is hereby enacted as follows:—

1. This Act may be called "The Portuguese Convention Act, 1881." Short title.

Local extent. It extends to the whole of British India.

Commencement and continuance. It shall come into force at once, and shall remain in force until the expiration of one year from the date of any notice which may be given under the fourteenth clause of the said Convention.

2. The provisions of the said Convention, so far as they are binding upon the Government of British India, shall be deemed to have the force of law.

3. The provisions of the Indian Coinage Act, Act XXIII of 1870 to 1870, or any other law for apply to coin and bullion the time being in force relating to coinage and the mint, made and brought for coinage to the mint, under the said Convention, shall, so far as they are consistent with the said Convention, apply to all coin made, and bullion brought for coinage to the mint, under the said Convention, as if such coin and bullion were respectively made and brought for coinage to the mint under the said Act.

#### THE SCHEDULE.

Whereas, by the fifth article of a Treaty of Commerce and Extradition executed at Lisbon on the twenty-sixth day of December, 1878, and ratified on the sixth day of August, 1879, between His Most Faithful Majesty the King of Portugal and the Algarves and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, it is provided that the High Contracting Parties shall use their best endeavours to establish between their respective systems of moneys, weights and measures the harmony desirable for the development of commercial relations between their respective dominions; and whereas by the same article it is further provided that the detailed measures to be adopted shall form the subject of a separate Convention between the Governors General of British India and

Portuguese India, to be executed within two years from the date when the said Treaty comes into force; and whereas the said Treaty came into force on the fifteenth day of January, 1880:

In pursuance of the said article, the following Convention has been made:—

1. The Governor General of Portuguese India shall adopt, in the Portuguese possessions in India, the monetary system of British India, for the time being in force, provided that the coins shall have on one side the effigy of the King of Portugal, with the legend *Ludovicus I, Portugaliae et Algarbiorum Rex*, around it, or such other effigy and legend as the said Governor General may from time to time desire, and on the other side the value of each coin, the year of the Christian era, and the words *India Portugueza*.

2. Subject to the provisions of clause 7, so long as this Convention remains in force, the following coins and no others shall be struck for Portuguese India:—

*Silver.*—Rupee, weighing 180 grains troy;

Half-rupee, weighing 90 grains troy;

Quarter-rupee, weighing 45 grains troy;

Eighth of a rupee, weighing 22½ grains troy.

The standard fineness of the said silver coins shall be eleven-twelfths of fine silver and one-twelfth of alloy, subject to a remedy not exceeding the following:—

|                   | Remedy in weight.   | Remedy in fineness.  |
|-------------------|---------------------|----------------------|
| Rupee ...         | { Five thousandths. | { Two thousandths.   |
| Half-rupee ...    |                     |                      |
| Quarter-rupee ... | Seven thousandths.  | { Three thousandths. |
| Eighth of a rupee | Ten thousandths.    |                      |

*Copper.*—Half tanga, weighing 200 grains troy, and corresponding with the double pice or half-anna of British India;

Quarter tanga, weighing 100 grains troy, and corresponding with the pice of British India;

Eighth of a tanga, weighing 50 grains troy, and corresponding with the half-pice of British India;

Real, or twelfth of a tanga, corresponding with the pie of British India;

In the making of copper coins, a remedy shall be allowed not exceeding one-fortieth in weight.

The value in copper of one Portuguese rupee will be sixteen Portuguese tangas, sixty-four quarter tangas or pices, or one hundred and ninety-two reas or pies.

3. The Portuguese silver and copper coins established by this Convention shall be issued by the authority of the Government of Portuguese India, and shall be coined on behalf of the said Government by the Government of British India, and by no other agency whatever.

The Governor General of Portuguese India engages that, while this Convention continues in force, no coins other than those established by this

Convention shall be coined in or imported into Portuguese India.

4. With the view of obtaining in the shortest possible time the desired uniformity of coinage throughout the respective Indian possessions of the High Contracting Parties, the Governor General of British India engages that the Government of British India shall—

(a) forego, for the period of three years from the date on which this Convention comes into force, all duty or other charge for melting, cutting, refining or recoining any coin of the existing Portuguese Indian silver currency tendered for recoinage into Portuguese Indian coin;

(b) deliver, for the period of five years from the date of this Convention, copper coins of the Portuguese copper currency established by this Convention in exchange for copper coins of the existing Portuguese Indian copper currency which may be brought to the said Mint for the purpose of such exchange, at the value represented by such last-mentioned coins in the existing Portuguese currency. The relative representative value of the old and new coin to be thus exchanged on equal terms, and without charge for manufacture, shall, if the Governor General of Portuguese India so desires, be determined, once for all, by a mixed commission appointed in the manner provided in the sixteenth article of the above-cited Treaty;

(c) advance to the Governor General of Portuguese India, in the Portuguese currency established by this Convention, such sums in such denominations of coin, and in such instalments (if any), as the said Governor General of Portuguese India may require: provided—

1stly.—That the amount of such advances outstanding at any time shall not exceed in the whole ten lakhs of rupees.

2ndly.—That an interval of two months shall be allowed for compliance with any such requisition, and that no such advance shall be made after the expiration of eighteen months from the date on which this Convention comes into force.

3rdly.—That every such advance shall be, within two months, repaid in coin of the existing Portuguese Indian currency, equivalent thereto in intrinsic value ascertained upon assay at Her Majesty's Mint, or in copper coin of the existing Portuguese Indian currency valued as prescribed in clause (b).

5. The Governor General of British India engages that the Government of British India shall,—

(a) on presentation by or on behalf of the Governor General of Portuguese India of any silver bullion or coin at the Mint at Bombay, or at such other Mint as the said Government from time to time appoints, deliver to the said Governor General or his agent, after such interval as in the judgment of the Mint Master is necessary for the process of

coinage, the produce of such silver bullion or coin, in the silver coin established by this Convention, subject, always, to the same duty, charges, fees and regulations as are for the time being in force for the conversion into British Indian currency of bullion and coin, presented at the said Mint: provided that, save as provided in clause 4, the said Government shall not be bound thus to deliver more than four lakhs of rupees in any one year;

(b) coin for the Governor General of Portuguese India the copper coins established by this Convention, to such amounts and in such denominations as the said Governor General may require, upon payment of the value inscribed upon such coins in the silver coin established by this Convention or in British Indian rupees: provided that, saving as engaged in clause 4, the said Government shall not be bound thus to coin more than twenty thousand rupees' worth of such coin in any one year.

In lieu of any seignorage or profits which the Portuguese Government might otherwise claim on account of the coinage on their behalf provided by this clause, the Governor General of British India engages to pay the Governor General of Portuguese India an indemnity of four thousand rupees per annum, commencing from the first day of November, one thousand eight hundred and eighty-three, and continuing as long as this Convention remains in force.

6. All silver and copper Portuguese coins, coined under the provisions of this Convention, shall, while this Convention remains in force, be legal tender in payment or on account throughout British India to the same extent, and subject to the same exceptions in the case of coin which has been called in, or is under weight, or has been clipped, filed or defaced, as in the case of the corresponding silver and copper coins issued by the authority of the Government of British India for the time being in British India.

All silver and copper coin which has been issued by the authority of the Government of British India shall, to the said same extent and subject to the same exceptions, be a legal tender in payment or on account throughout Portuguese India.

7. The Governor General of Portuguese India agrees that, if at any time while this Convention continues in force the Government of British India should recall the whole body of British Indian coin corresponding to any description of Portuguese coin issued under this Convention, or change the monetary system of British India, he will, if requested by such Government so to do, recall all Portuguese coin of that description, or change in like manner, as the case may be, the monetary system of Portuguese India: provided that the expense incurred in recalling such coin or making such change shall be defrayed by the Government of British India.

8. When any silver coin, purporting to have been issued under the provisions of this Convention, is tendered to any officer of the Government of British India, authorized by that Government to act under this clause, and is deemed by such

officer to be counterfeit, or to have been reduced in weight otherwise than by reasonable wearing, he may, by himself or another (subject to the rules which the said Government prescribes in this behalf), cut or break such coin and return the pieces to the person tendering the same, and the loss caused by such cutting and breaking shall be borne by such person.

9. When any such silver coin which has been called in is tendered to any officer of the Government of British India authorized by that Government to act under this clause, he may cut or break such coin, and shall receive it at the rate of one rupee per tola; but the expense thus incurred shall, except when such coin has been recalled under clause 7, be borne by the Portuguese Government.

10. In like manner, when any British Indian coin which has been called in is tendered to any officer of the Government of Portuguese India authorized by that Government to act under this clause, he may cut or break such coin, and shall receive it at the rate of one rupee per tola, and the expense so incurred shall be borne by the Government of British India.

11. The Governor General of Portuguese India engages to appoint an officer who will receive, while this Convention continues in force, from any person tendering the coin next hereinafter mentioned, all silver coin issued under this Convention which may have lost, by reasonable wearing, more than two per cent., and shall pay for the same at the rate of one rupee per tola.

12. Nothing in this Convention shall be held to limit the powers of His Most Faithful Majesty the King of Portugal and the Algarves to establish at any time such system of paper currency as he may deem fit.

The Governor General of Portuguese India has the power for the present to issue the following paper money:—

|                   |                    |
|-------------------|--------------------|
| Five-rupee notes, | payable in copper. |
| Ten-rupee notes,  | payable in silver. |
| Twenty            | ditto.             |
| Fifty             | ditto.             |
| One hundred       | ditto.             |
| Five hundred      | ditto.             |

The amount of paper money issued will never be above four per cent. of the value of the money in circulation, the Portuguese India Government notes being guaranteed by the Portuguese Government and payable to the bearer.

13. The Governor General of Portuguese India engages that, whenever the Government of British India exercises in respect of British India generally, or of all the territories adjacent to Portuguese India, the powers conferred on it under a certain Act of the Governor General of British India in Council, called "The Indian Weights and Measures of Capacity Act, 1871," then he, the said Governor General of Portuguese India, will enforce throughout Portuguese India provisions similar to those of that Act.

14. This Convention shall come into force on the first day of November, one thousand eight hundred and eighty, and shall remain in force until the expiration of a year counting from the

day on which one or other of the Contracting Parties shall have given notice to the other of its intention to put an end to it: provided that no such notice shall be given until four years after the date on which the Convention comes into force.

15. The Governor General of Portuguese India undertakes that, in the event of this Convention being put an end to under clause 14 or otherwise, no coins resembling any of the coins struck under this Convention shall be struck in or imported into Portuguese India, or shall be struck under the authority of, or with the sanction of, His Most Faithful Majesty in any other place.

Done at Pangim on the twelfth day of April, one thousand eight hundred and eighty.

(Sd.) CAETANO ALDRE. D'ALMEIDA  
ALBUQUERQUE,  
*Governor General of Portuguese India.*

Done at Calcutta on the eighteenth day of March, one thousand eight hundred and eighty.

(Sd.) LYTTON,  
*Viceroy and Governor General  
of British India.*

R. J. CROSTHWAITE,  
*Offg. Secy. to the Govt. of India.*



# The Gazette of India.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART IV.

### Acts of the Governor General's Council assented to by the Governor General.

#### GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 25th May, 1881, and is hereby promulgated for general information :—

Act No. XVII of 1881.

An Act to give effect to the Convention between the Governors General of British India and Portuguese India regarding their respective systems of moneys, weights and measures.

WHEREAS by the fifth article of a Treaty of Commerce and Extradition executed at Lisbon, on the twenty-sixth day of December, 1878, and ratified on the sixth day of August, 1879, between His Most Faithful Majesty the King of Portugal and the Algarves and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, it was provided that the High Contracting Parties should use their best endeavours to establish between their respective systems of moneys, weights and measures the harmony desirable for the development of commercial relations between their respective dominions :

And whereas by the same article it was further provided that the detailed measures to be adopted should form the subject of a separate Convention between the Governors General of British India and Portuguese India, to be executed within two years from the date when the said Treaty came into force :

And whereas the said Treaty came into force on the fifteenth day of January, 1880 :

And whereas, in pursuance of the said recited article, the Convention set forth in the schedule hereto annexed has been made :

It is hereby enacted as follows :—

1. This Act may be called "The Portuguese Convention Act, 1881."

Local extent. It extends to the whole of British India.

Commencement and continuance. It shall come into force at once, and shall remain in force until the expiration of one year from the date of any notice which may be given under the fourteenth clause of the said Convention.

2. The provisions of the said Convention, so far as they are binding upon the Government of British India, shall be deemed to have the force of law.

3. The provisions of the Indian Coinage Act, Act XXIII of 1870 to apply to coin and bullion made and brought for coinage to mint under Convention, shall, so far as they are consistent with the said Convention, apply to all coin made, and bullion brought for coinage to the mint, under the said Convention, as if such coin and bullion were respectively made and brought for coinage to the mint under the said Act.

#### THE SCHEDULE.

Whereas, by the fifth article of a Treaty of Commerce and Extradition executed at Lisbon on the twenty-sixth day of December, 1878, and ratified on the sixth day of August, 1879, between His Most Faithful Majesty the King of Portugal and the Algarves and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, it is provided that the High Contracting Parties shall use their best endeavours to establish between their respective systems of moneys, weights and measures the harmony desirable for the development of commercial relations between their respective dominions ; and whereas by the same article it is further provided that the detailed measures to be adopted shall form the subject of a separate Convention between the Governors General of British India and

Portuguese India, to be executed within two years from the date when the said Treaty comes into force ; and whereas the said Treaty came into force on the fifteenth day of January, 1880 :

In pursuance of the said article, the following Convention has been made :—

1. The Governor General of Portuguese India shall adopt, in the Portuguese possessions in India, the monetary system of British India, for the time being in force, provided that the coins shall have on one side the effigy of the King of Portugal, with the legend *Ludovicus I, Portugalic et Algarbiorum Rex*, around it, or such other effigy and legend as the said Governor General may from time to time desire, and on the other side the value of each coin, the year of the Christian era, and the words *India Portugueza*.

2. Subject to the provisions of clause 7, so long as this Convention remains in force, the following coins and no others shall be struck for Portuguese India :—

*Silver.*—Rupee, weighing 180 grains troy ;

Half-rupee, weighing 90 grains troy ;

Quarter-rupee, weighing 45 grains troy ;

Eighth of a rupee, weighing 22½ grains troy.

The standard fineness of the said silver coins shall be eleven-twelfths of fine silver and one-twelfth of alloy, subject to a remedy not exceeding the following :—

|                   | Remedy in weight.  | Remedy in fineness. |
|-------------------|--------------------|---------------------|
| Rupee ...         | Five thousandths.  | Two thousandths.    |
| Half-rupee ...    |                    |                     |
| Quarter-rupee...  | Seven thousandths. | Three thousandths.  |
| Eighth of a rupee | Ten thousandths.   |                     |

*Copper.*—Half *tanga*, weighing 200 grains troy, and corresponding with the double pice or half-anna of British India ;

Quarter *tanga*, weighing 100 grains troy, and corresponding with the pice of British India ;

Eighth of a *tanga*, weighing 50 grains troy, and corresponding with the half-pice of British India ;

*Real*, or twelfth of a *tanga*, corresponding with the pie of British India ;

In the making of copper coins, a remedy shall be allowed not exceeding one-fortieth in weight.

The value in copper of one Portuguese rupee will be sixteen Portuguese *tangas*, sixty-four quarter *tangas* or pices, or one hundred and ninety-two reais or pies.

3. The Portuguese silver and copper coins established by this Convention shall be issued by the authority of the Government of Portuguese India, and shall be coined on behalf of the said Government by the Government of British India, and by no other agency whatever.

The Governor General of Portuguese India engages that, while this Convention continues in force, no coins other than those established by this

Convention shall be coined in or imported into Portuguese India.

4. With the view of obtaining in the shortest possible time the desired uniformity of coinage throughout the respective Indian possessions of the High Contracting Parties, the Governor General of British India engages that the Government of British India shall—

(a) forego, for the period of three years from the date on which this Convention comes into force, all duty or other charge for melting, cutting, refining or recoining any coin of the existing Portuguese Indian silver currency tendered for recoinage into Portuguese Indian coin ;

(b) deliver, for the period of five years from the date of this Convention, copper coins of the Portuguese copper currency established by this Convention in exchange for copper coins of the existing Portuguese Indian copper currency which may be brought to the said Mint for the purpose of such exchange, at the value represented by such last-mentioned coins in the existing Portuguese currency. The relative representative value of the old and new coin to be thus exchanged on equal terms, and without charge for manufacture, shall, if the Governor General of Portuguese India so desires, be determined, once for all, by a mixed commission appointed in the manner provided in the sixteenth article of the above-cited Treaty ;

(c) advance to the Governor General of Portuguese India, in the Portuguese currency established by this Convention, such sums in such denominations of coin, and in such instalments (if any), as the said Governor General of Portuguese India may require : provided—

1stly.—That the amount of such advances outstanding at any time shall not exceed in the whole ten lakhs of rupees.

2ndly.—That an interval of two months shall be allowed for compliance with any such requisition, and that no such advance shall be made after the expiration of eighteen months from the date on which this Convention comes into force.

3rdly.—That every such advance shall be, within two months, repaid in coin of the existing Portuguese Indian currency, equivalent thereto in intrinsic value ascertained upon assay at Her Majesty's Mint, or in copper coin of the existing Portuguese Indian currency valued as prescribed in clause (b).

5. The Governor General of British India engages that the Government of British India shall,—

(a) on presentation by or on behalf of the Governor General of Portuguese India of any silver bullion or coin at the Mint at Bombay, or at such other Mint as the said Government from time to time appoints, deliver to the said Governor General or his agent, after such interval as in the judgment of the Mint Master is necessary for the process of

coinage, the produce of such silver bullion or coin, in the silver coin established by this Convention, subject, always, to the same duty, charges, fees and regulations as are for the time being in force, for the conversion into British Indian currency of bullion and coin, presented at the said Mint: provided that, save as provided in clause 4, the said Government shall not be bound thus to deliver more than four lakhs of rupees in any one year;

- (b) coin for the Governor General of Portuguese India the copper coins established by this Convention, to such amounts and in such denominations as the said Governor General may require, upon payment of the value inscribed upon such coins in the silver coin established by this Convention or in British Indian rupees: provided that, saving as engaged in clause 4, the said Government shall not be bound thus to coin more than twenty thousand rupees' worth of such coin in any one year.

In lieu of any seignorage or profits which the Portuguese Government might otherwise claim on account of the coinage on their behalf provided by this clause, the Governor General of British India engages to pay the Governor General of Portuguese India an indemnity of four thousand rupees per annum, commencing from the first day of November, one thousand eight hundred and eighty-three, and continuing as long as this Convention remains in force.

8. All silver and copper Portuguese coins, coined under the provisions of this Convention, shall, while this Convention remains in force, be legal tender in payment or on account throughout British India to the same extent, and subject to the same exceptions in the case of coin which has been called in, or is under weight, or has been clipped, filed or defaced, as in the case of the corresponding silver and copper coins issued by the authority of the Government of British India for the time being in British India.

All silver and copper coin which has been issued by the authority of the Government of British India shall, to the said same extent and subject to the same exceptions, be a legal tender in payment or on account throughout Portuguese India.

7. The Governor General of Portuguese India agrees that, if at any time while this Convention continues in force the Government of British India should recall the whole body of British Indian coin corresponding to any description of Portuguese coin issued under this Convention, or change the monetary system of British India, he will, if requested by such Government so to do, recall all Portuguese coin of that description, or change in like manner, as the case may be, the monetary system of Portuguese India: provided that the expense incurred in recalling such coin or making such change shall be defrayed by the Government of British India.

8. When any silver coin, purporting to have been issued under the provisions of this Convention, is tendered to any officer of the Government of British India, authorized by that Government to act under this clause, and is deemed by such

officer to be counterfeit, or to have been reduced in weight otherwise than by reasonable wearing, he may, by himself or another (subject to the rules which the said Government prescribes in this behalf), cut or break such coin and return the pieces to the person tendering the same, and the loss caused by such cutting and breaking shall be borne by such person.

9. When any such silver coin which has been called in is tendered to any officer of the Government of British India authorized by that Government to act under this clause, he may cut or break such coin, and shall receive it at the rate of one rupee per tola; but the expense thus incurred shall, except when such coin has been recalled under clause 7, be borne by the Portuguese Government.

10. In like manner, when any British Indian coin which has been called in is tendered to any officer of the Government of Portuguese India authorized by that Government to act under this clause, he may cut or break such coin, and shall receive it at the rate of one rupee per tola, and the expense so incurred shall be borne by the Government of British India.

11. The Governor General of Portuguese India engages to appoint an officer who will receive, while this Convention continues in force, from any person tendering the coin next hereinafter mentioned, all silver coin issued under this Convention which may have lost, by reasonable wearing, more than two per cent., and shall pay for the same at the rate of one rupee per tola.

12. Nothing in this Convention shall be held to limit the powers of His Most Faithful Majesty the King of Portugal and the Algarves to establish at any time such system of paper currency as he may deem fit.

The Governor General of Portuguese India has the power for the present to issue the following paper money:—

|                   |                    |
|-------------------|--------------------|
| Five-rupee notes, | payable in copper. |
| Ten-rupee notes,  | payable in silver. |
| Twenty            | ditto.             |
| Fifty             | ditto.             |
| One hundred       | ditto.             |
| Five hundred      | ditto.             |

The amount of paper money issued will never be above four per cent. of the value of the money in circulation, the Portuguese India Government notes being guaranteed by the Portuguese Government and payable to the bearer.

13. The Governor General of Portuguese India engages that, whenever the Government of British India exercises in respect of British India generally, or of all the territories adjacent to Portuguese India, the powers conferred on it under a certain Act of the Governor General of British India in Council, called "The Indian Weights and Measures of Capacity Act, 1871," then he, the said Governor General of Portuguese India, will enforce throughout Portuguese India provisions similar to those of that Act.

14. This Convention shall come into force on the first day of November, one thousand eight hundred and eighty, and shall remain in force until the expiration of a year counting from the

day on which one or other of the Contracting Parties shall have given notice to the other of its intention to put an end to it: provided that no such notice shall be given until four years after the date on which the Convention comes into force.

15. The Governor General of Portuguese India undertakes that, in the event of this Convention being put an end to under clause 14 or otherwise, no coins resembling any of the coins struck under this Convention shall be struck in or imported into Portuguese India, or shall be struck under the authority of, or with the sanction of, His Most Faithful Majesty in any other place.

Done at Pangim on the twelfth day of April, one thousand eight hundred and eighty.

(Sd.) CAETANO ALDRE. D'ALMEIDA  
ALBUQUERQUE,  
*Governor General of Portuguese India.*

Done at Calcutta on the eighteenth day of March, one thousand eight hundred and eighty.

(Sd.) LYTTON,  
*Viceroy and Governor General  
of British India.*

R. J. CROSTHWAITE,  
*Offy. Secy. to the Govt. of India.*



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY JUNE 11, 1881.

~~Separate paging is given to this Part in order that it may be filed as a separate compilation.~~

## PART IV.

### Acts of the Governor General's Council assented to by the Governor General.

#### GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 25th May, 1881, and is hereby promulgated for general information:—

#### ACT NO. XVII OF 1881.

An Act to give effect to the Convention between the Governors General of British India and Portuguese India regarding their respective systems of moneys, weights and measures.

WHEREAS by the fifth article of a Treaty of Commerce and Extradition

Preamble. executed at Lisbon on the twenty-sixth day of December, 1878, and ratified on the sixth day of August, 1879, between His Most Faithful Majesty the King of Portugal and the Algarves and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, it was provided that the High Contracting Parties should use their best endeavours to establish between their respective systems of moneys, weights and measures the harmony desirable for the development of commercial relations between their respective dominions:

And whereas by the same article it was further provided that the detailed measures to be adopted should form the subject of a separate Convention between the Governors General of British India and Portuguese India, to be executed within two years from the date when the said Treaty came into force:

And whereas the said Treaty came into force on the fifteenth day of January, 1880:

And whereas, in pursuance of the said recited article, the Convention set forth in the schedule hereto annexed has been made;

It is hereby enacted as follows:—

1. This Act may be called "The Portuguese Convention Act, 1881."

Local extent. It extends to the whole of British India.

Commencement and continuance. It shall come into force at once, and shall remain in force until the expiration of one year from the date of any notice which may be given under the fourteenth clause of the said Convention.

2. The provisions of the said Convention, so far as they are binding upon the Government of British India, shall be deemed to have the force of law.

3. The provisions of the Indian Coinage Act, 1870, or any other law for the time being in force relating to coinage and the mint, shall, so far as they are consistent with the said Convention, apply to all coin made, and bullion brought for coinage to the mint, under the said Convention, as if such coin and bullion were respectively made and brought for coinage to the mint under the said Act.

#### THE SCHEDULE.

Whereas, by the fifth article of a Treaty of Commerce and Extradition executed at Lisbon on the twenty-sixth day of December, 1878, and ratified on the sixth day of August, 1879, between His Most Faithful Majesty the King of Portugal and the Algarves and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, it is provided that the High Contracting Parties shall use their best endeavours to establish between their respective systems of moneys, weights and measures the harmony desirable for the development of commercial relations between their respective dominions; and whereas by the same article it is further provided that the detailed measures to be adopted shall form the subject of a separate Convention between the Governors General of British India and

Portuguese India, to be executed within two years from the date when the said Treaty comes into force ; and whereas the said Treaty came into force on the fifteenth day of January, 1880 :

In pursuance of the said article, the following Convention has been made :—

1. The Governor General of Portuguese India shall adopt, in the Portuguese possessions in India, the monetary system of British India, for the time being in force, provided that the coins shall have on one side the effigy of the King of Portugal, with the legend *Ludovicus I, Portugalia et Algarbiorum Rex*, around it, or such other effigy and legend as the said Governor General may from time to time desire, and on the other side the value of each coin, the year of the Christian era, and the words *India Portugueza*.

2. Subject to the provisions of clause 7, so long as this Convention remains in force, the following coins and no others shall be struck for Portuguese India :—

*Silver*.—Rupee, weighing 180 grains troy ;

Half-rupee, weighing 90 grains troy ;

Quarter-rupee, weighing 45 grains troy ;

Eighth of a rupee, weighing 22½ grains troy.

The standard fineness of the said silver coins shall be eleven-twelfths of fine silver and one-twelfth of alloy, subject to a remedy not exceeding the following :—

|                   | Remedy in weight.   | Remedy in fineness.  |
|-------------------|---------------------|----------------------|
| Rupee ...         | { Five thousandths. | { Two thousandths.   |
| Half-rupee ...    |                     |                      |
| Quarter-rupee...  | Seven thousandths.  | { Three thousandths. |
| Eighth of a rupee | Ten thousandths.    |                      |

*Copper*.—Half *tanga*, weighing 200 grains troy, and corresponding with the double pice or half-aanna of British India ;

Quarter *tanga*, weighing 100 grains troy, and corresponding with the pice of British India ;

Eighth of a *tanga*, weighing 50 grains troy, and corresponding with the half-pice of British India ;

*Real*, or twelfth of a *tanga*, corresponding with the pie of British India ;

In the making of copper coins, a remedy shall be allowed not exceeding one-fortieth in weight.

The value in copper of one Portuguese rupee will be sixteen Portuguese *tangas*, sixty-four quarter *tangas* or pices, or one hundred and ninety-two reales or pies.

3. The Portuguese silver and copper coins established by this Convention shall be issued by the authority of the Government of Portuguese India, and shall be coined on behalf of the said Government by the Government of British India, and by no other agency whatever.

The Governor General of Portuguese India engages that, while this Convention continues in force, no coins other than those established by this

Convention shall be coined in or imported into Portuguese India.

4. With the view of obtaining in the shortest possible time the desired uniformity of coinage throughout the respective Indian possessions of the High Contracting Parties, the Governor General of British India engages that the Government of British India shall—

(a) forego, for the period of three years from the date on which this Convention comes into force, all duty or other charge for melting, cutting, refining or recoining any coin of the existing Portuguese Indian silver currency tendered for re-coining into Portuguese Indian coin ;

(b) deliver, for the period of five years from the date of this Convention, copper coins of the Portuguese copper currency established by this Convention in exchange for copper coins of the existing Portuguese Indian copper currency which may be brought to the said Mint for the purpose of such exchange, at the value represented by such last-mentioned coins in the existing Portuguese currency. The relative representative value of the old and new coin to be thus exchanged on equal terms, and without charge for manufacture, shall, if the Governor General of Portuguese India so desires, be determined, once for all, by a mixed commission appointed in the manner provided in the sixteenth article of the above-cited Treaty ;

(c) advance to the Governor General of Portuguese India, in the Portuguese currency established by this Convention, such sums in such denominations of coin, and in such instalments (if any), as the said Governor General of Portuguese India may require : provided—

1stly.—That the amount of such advances outstanding at any time shall not exceed in the whole ten lakhs of rupees.

2ndly.—That an interval of two months shall be allowed for compliance with any such requisition, and that no such advance shall be made after the expiration of eighteen months from the date on which this Convention comes into force.

3rdly.—That every such advance shall be, within two months, repaid in coin of the existing Portuguese Indian currency, equivalent thereto in intrinsic value ascertained upon assay at Her Majesty's Mint, or in copper coin of the existing Portuguese Indian currency valued as prescribed in clause (b).

5. The Governor General of British India engages that the Government of British India shall,—

(a) on presentation by or on behalf of the Governor General of Portuguese India of any silver bullion or coin at the Mint at Bombay, or at such other Mint as the said Government from time to time appoints, deliver to the said Governor General or his agent, after such interval as in the judgment of the Mint Master is necessary for the process of

coinage, the produce of such silver bullion or coin, in the silver coin established by this Convention, subject, always, to the same duty, charges, fees and regulations as are for the time being in force for the conversion into British Indian currency of bullion and coin, presented at the said Mint: provided that, save as provided in clause 4, the said Government shall not be bound thus to deliver more than four lakhs of rupees in any one year;

- (b) coin for the Governor General of Portuguese India the copper coins established by this Convention, to such amounts and in such denominations as the said Governor General may require, upon payment of the value inscribed upon such coins in the silver coin established by this Convention or in British Indian rupees: provided that, saving as engaged in clause 4, the said Government shall not be bound thus to coin more than twenty thousand rupees' worth of such coin in any one year.

In lieu of any seignorage or profits which the Portuguese Government might otherwise claim on account of the coinage on their behalf provided by this clause, the Governor General of British India engages to pay the Governor General of Portuguese India an indemnity of four thousand rupees per annum, commencing from the first day of November, one thousand eight hundred and eighty-three, and continuing as long as this Convention remains in force.

6. All silver and copper Portuguese coins, coined under the provisions of this Convention, shall, while this Convention remains in force, be legal tender in payment or on account throughout British India to the same extent, and subject to the same exceptions in the case of coin which has been called in, or is underweight, or has been clipped, filed or defaced, as in the case of the corresponding silver and copper coins issued by the authority of the Government of British India for the time being in British India.

All silver and copper coin which has been issued by the authority of the Government of British India shall, to the said same extent and subject to the same exceptions, be a legal tender in payment or on account throughout Portuguese India.

7. The Governor General of Portuguese India agrees that, if at any time while this Convention continues in force the Government of British India should recall the whole body of British Indian coin corresponding to any description of Portuguese coin issued under this Convention, or change the monetary system of British India, he will, if requested by such Government so to do, recall all Portuguese coin of that description, or change in like manner, as the case may be, the monetary system of Portuguese India: provided that the expense incurred in recalling such coin or making such change shall be defrayed by the Government of British India.

8. When any silver coin, purporting to have been issued under the provisions of this Convention, is tendered to any officer of the Government of British India, authorized by that Government to act under this clause, and is deemed by such

officer to be counterfeit, or to have been reduced in weight otherwise than by reasonable wearing, he may, by himself or another (subject to the rules which the said Government prescribes in this behalf), cut or break such coin and return the pieces to the person tendering the same, and the loss caused by such cutting and breaking shall be borne by such person.

9. When any such silver coin which has been called in is tendered to any officer of the Government of British India authorized by that Government to act under this clause, he may cut or break such coin, and shall receive it at the rate of one rupee per tola; but the expense thus incurred shall, except when such coin has been recalled under clause 7, be borne by the Portuguese Government.

10. In like manner, when any British Indian coin which has been called in is tendered to any officer of the Government of Portuguese India authorized by that Government to act under this clause, he may cut or break such coin, and shall receive it at the rate of one rupee per tola, and the expense so incurred shall be borne by the Government of British India.

11. The Governor General of Portuguese India engages to appoint an officer who will receive, while this Convention continues in force, from any person tendering the coin next hereinafter mentioned, all silver coin issued under this Convention which may have lost, by reasonable wearing, more than two per cent., and shall pay for the same at the rate of one rupee per tola.

12. Nothing in this Convention shall be held to limit the powers of His Most Faithful Majesty the King of Portugal and the Algarves to establish at any time such system of paper currency as he may deem fit.

The Governor General of Portuguese India has the power for the present to issue the following paper money:—

Five-rupee notes, payable in copper.

Ten-rupee notes, payable in silver.

|        |        |
|--------|--------|
| Twenty | ditto. |
|--------|--------|

|       |        |
|-------|--------|
| Fifty | ditto. |
|-------|--------|

|             |        |
|-------------|--------|
| One hundred | ditto. |
|-------------|--------|

|              |        |
|--------------|--------|
| Five hundred | ditto. |
|--------------|--------|

The amount of paper money issued will never be above four per cent. of the value of the money in circulation, the Portuguese India Government notes being guaranteed by the Portuguese Government and payable to the bearer.

13. The Governor General of Portuguese India engages that, whenever the Government of British India exercises in respect of British India generally, or of all the territories adjacent to Portuguese India, the powers conferred on it under a certain Act of the Governor General of British India in Council, called "The Indian Weights and Measures of Capacity Act, 1871," then he, the said Governor General of Portuguese India, will enforce throughout Portuguese India provisions similar to those of that Act.

14. This Convention shall come into force on the first day of November, one thousand eight hundred and eighty, and shall remain in force until the expiration of a year counting from the

day on which one or other of the Contracting Parties shall have given notice to the other of its intention to put an end to it: provided that no such notice shall be given until four years after the date on which the Convention comes into force.

15. The Governor General of Portuguese India undertakes that, in the event of this Convention being put an end to under clause 14 or otherwise, no coins resembling any of the coins struck under this Convention shall be struck in or imported into Portuguese India, or shall be struck under the authority of, or with the sanction of, His Most Faithful Majesty in any other place.

Done at Pangim on the twelfth day of April, one thousand eight hundred and eighty.

(Sd.) CAETANO ALDRE. D'ALMEIDA  
ALBUQUERQUE,  
*Governor General of Portuguese India*

Done at Calcutta on the eighteenth day of March, one thousand eight hundred and eighty.

(Sd.) LYTTON,  
*Viceroy and Governor General  
of British India.*

R. J. CROSTHWAITE,  
*Off. Secy. to the Govt. of India.*

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th June, 1881, and is hereby promulgated for general information :—

ACT NO. XVIII OF 1881.

## THE CENTRAL PROVINCES LAND-REVENUE ACT, 1881.

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*An Act to consolidate and amend the law relating to Land-revenue and the powers of Revenue-officers in the Central Provinces.*

WHEREAS it is expedient to consolidate and amend the law relating to Land-revenue and to the powers of Revenue-officers in the Central Provinces ; It is hereby enacted as follows :—

## PART I.

## CHAPTER I.

## PRELIMINARY.

1. This Act may be called “The Central Provinces Land-revenue Act, 1881”:

It extends to all the territories for the time being under the administration of the Chief Commissioner of the Central Provinces, except those specified in Part VI of the first schedule of the Scheduled Districts Act, 1874 :

And it shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may direct by notification in the local official Gazette.

2. On and from such day the enactments mentioned in the schedule hereto annexed, so far as they relate to the territories to which this Act extends, and all other rules, regulations and enactments relating to the settlement and collection of the land-revenue in such territories, shall be repealed.

3. All proceedings relating to matters dealt with by this Act and, when this Act comes into force, pending before officers by whom they would be cognizable under this Act, shall be deemed, so far as may be, to have been commenced hereunder.

4. In this Act, unless there is something repugnant in the subject or context,—

“Assistant Commissioner” includes also “Extra Assistant Commissioner”:

(1) “Assistant Commissioner” means an advocate, vakil or attorney of any High Court, a pleader, mukhtár or revenue-agent :

(2) “Legal Practitioner” means a person resident or holding lands in a village pays or renders to the proprietors as such of the village, and includes service rendered or things furnished as well as money paid :

(3) “Village-cess” means any cess which a person resident or holding lands in a village pays or renders to the proprietors as such of the village, and includes service rendered or things furnished as well as money paid :

(4) “Recognized agent” means a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in such proceeding and also belonging to any class which the Chief Commissioner may, from time to time, by notification in the official Gazette, declare in this behalf :

(5) “Agricultural year” means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified District or Districts, from time to time, appoint :

(6) “Sír-land” means (a) land recorded as “Sír-land”, “sír” in the papers of the last preceding settlement of the local area in which such land is situate ; and (b) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years ; and (c) waste land which has been broken up by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years ; and (d) in Sambalpúr, includes also “bhogra” land.

*Explanation.—Land which has, after the date of such settlement, or the expiry of such period of twelve years, or six years (as the case may be), been for a period of six consecutive years unoccupied by such proprietor is not sír-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights :*

(7) “Mahál” means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of this Act, to be a mahál :

(8) “Village” includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of this Act :

(9) “Málguzár” means a person who, under the provisions of this Act, has accepted, or is to be deemed to have accepted, the assessment of a mahál, and includes his representatives and assigns ; and also any person with whom a settlement has been made before this Act comes into force, and his representatives and assigns :

(10) "Málik-makbúzá" means any person owning one or more plots of land assessed with revenue in a mahál; but it does not include a málguzár or inferior proprietor:

(11) "Lambardár" means a person appointed "Lambardár": in manner prescribed by this Act to represent the proprietary body of a mahál in its relations with the Government:

(12) "Sub-lambardár" means a person so appointed to represent the inferior proprietary body of a mahál in its relations with the superior proprietors:

(13) "Mukaddam" means the executive head "Mukaddam": man of a village, appointed in manner prescribed by this Act:

(14) "Tenant" means a person who holds land "Tenant": of another person, and is, or but for a special contract would be, liable to pay rent for such land to such other person; but it does not include a farmer, mortgagee or thekadár of proprietary rights.

*Explanation.*—An inferior proprietor is not, as such, a tenant:

(15) "Rent" means whatever is paid, delivered "Rent": or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(16) "Absolute occupancy-tenant" means, in "Absolute occupancy-tenant": reference to any land, a tenant who, at a settlement of such land made before this Act comes into force, or after such a settlement but before this Act comes into force, was recorded, by order of a Revenue or Settlement officer, in respect of such land, as an "absolute occupancy-raiyat," or in terms equivalent thereto:

(17) "Record-of-rights" includes the supplementary administration- "Record-of-rights." paper prepared at or after the time of making a settlement before this Act comes into force.

## PART II.

### CHAPTER II.

#### OF REVENUE-OFFICERS: THEIR POWERS AND PROCEDURE.

5. The Chief Commissioner shall, subject to Chief Controlling Revenue-authority. the control of the Governor General in Council, be the Chief Controlling Revenue-authority.

6. Besides the Chief Commissioner, there shall be the following classes of Revenue-officers. Revenue-officers (namely):—

(a) Commissioners, who, subject to the control of the Chief Commissioner, shall be the Chief Revenue-authorities within their respective divisions:

(b) Deputy Commissioners, who, subject to the control of the Commissioner, shall be the Chief Revenue-authorities within their respective districts:

(c) Assistant Commissioners, who shall be subordinate to, and under the control of, the Deputy Commissioners of the districts to which they are respectively attached:

(d) Tahsildárs, who, subject to the control of the Deputy Commissioner, shall be the Chief Executive Revenue-authorities in the tahsils to which they are respectively attached:

(e) Náib Tahsildárs, who shall be subordinate to the Tahsildárs of the tahsils to which they are respectively attached.

7. Subject to the control of the Governor General in Council, the Chief Commissioner shall appoint, Appointment, suspension and removal of Commissioners, Deputy and Assistant Commissioners. and may suspend or remove, Commissioners, Deputy Commissioners and Assistant Commissioners.

8. The Chief Commissioner shall appoint, and Appointment, suspension and removal of Tahsildárs and Náib Tahsildárs. and may also make rules for regulating the appointment, duties, suspension and removal of Náib Tahsildárs.

9. All Commissioners, Deputy Commissioners, Persons holding office when Act comes into force. Assistant Commissioners, Tahsildárs and Náib Tahsildárs holding office as such in the territories to which this Act extends when this Act comes into force shall be deemed to have been appointed hereunder.

10. The Chief Commissioner may appoint any Power to appoint additional Commissioners, Deputy Commissioners and Tahsildárs. Tahsildár in any tahsil, or, with the sanction of the Governor General in Council, to be an additional Commissioner or additional Deputy Commissioner in any division or district, and may suspend or remove any person so appointed, but subject, in the case of an additional Commissioner or additional Deputy Commissioner, to the like sanction.

The Chief Commissioner may invest any additional Commissioner, Deputy Commissioner or Tahsildár appointed under this section with all or any of the powers conferred by this Act on a Commissioner, Deputy Commissioner or Tahsildár, as the case may be.

11. The Chief Commissioner may invest any Chief Commissioner may invest Assistant Commissioner attached to a district with all or any of the powers conferred by this Act on Deputy Commissioners.

12. Whenever any Assistant Commissioner, Officers transferred to retain powers with which they were invested. Tahsildár or Náib Tahsildár is transferred from one district or tahsil to another, he shall, unless the Chief Commissioner otherwise directs, exercise in the district or tahsil to which he is transferred all the powers with which he was, under any provision of this Act, invested by the Chief Commissioner in the district or tahsil from which he is transferred.

13. When a Deputy Commissioner dies or is disabled from performing his duties, such officer as the Chief Commissioner may by rule direct shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Act, until a successor to the Deputy Commissioner so dying or disabled is appointed and such successor